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PUBLISHED BY AUTHORITY

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OFFICE OF THE
MINISTER OF STATE FOR LABOUR
★ BANGALORE. ★
DATE 23/7/76

Reg. No. KRNA—25.

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Reg. No. KRNA—25.

28/10/76

# Karnataka Gazette

PUBLISHED BY AUTHORITY

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Reg. No. KRNA—25.

Ad. Secy's Copy

# Karnataka Gazette

PUBLISHED BY AUTHORITY

Vol. III | BANGALORE, THURSDAY, NOV. 25, 1976 (MARGASIRA 4, SAKA ERA 1898). | No. 47

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## PART IV

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LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW. 100 LCA. 75.

*Bangalore, dated, 24th December, 1975.*

Ordered that the parliamentary Proceedings (Protection of Publication) Repeal Ordinance, 1975 (25 of 1975) Published in Part II, Section I of the Gazette of India, Extraordinary, dated 8th December 1975 be republished in the *Karntaka Gazette*, for general information.

By Order and in the name of the Governor of Karnataka

T. S. LAKSHMI NARAYANA RAO,

*Under Secretary to Government,*

59 *Department of Law and Parliamentary Affairs.*

## GOVERNMENT OF INDIA

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

*New Delhi, the 8th December, 1975/Agrahayana 17, 1897 (Saka)*

### THE PARLIAMENTARY PROCEEDINGS (PROTECTION OF PUBLICATION) REPEAL ORDINANCE, 1975.

No 25 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to repeal the Parliamentary Proceedings (Protection of Publication) Act, 1956.

WHEREAS Parliament is not in session and the Prasident is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. **Short title and commencent** —(1) This Ordinance may be called the Parliamentary Proceedings (Protection of Publication) Repeal Ordinance, 1975.

(2) It shall come in to force at once

2. **Repeal of Act 24 of 1956 and saving** —During the period of operation of this Ordinance, the Parliamentary Proceedings (Protection of Publication) Act, 1956 shall be deemed to be repealed :

Provided that such repeal shall not effect any proceedings, civil or criminal whether pending immediately before the commencement of this Ordinance or instituted or taken after such commencement) in respect of—

(*a*) any publication referred to in sub-section (1) of section 3 of the said Act, made before such commencement ; or

(*b*) any report or matter broadcast, before such commencement, by the means referred to in section 4 of the said Act,

and accordingly any such proceedings shall be disposed of as if the said Act had continued in force and this Ordinance has not been promulgated

FAKHRUDDIN ALI AHMED

K.K. SUNDARAM
*Secretary to the Government of India*

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 101 LCA 75

*Bangalore dated 24th December 1975*

Ordered that the Press Council (Repeal) Ordinance, 1975 (26 of 1975) published in Part II Section I of the Gazette of India Extra-ordinary dated 8th December 1975 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

T. S. LAKSHMINARAYANA RAO,
*Under Secretary to Government,*
*Department of Law and Parly. Affairs.*

# GOVERNMENT OF INDI

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIR

(Legislative Department)

*New Delhi, the 8th December*, 1975/*Agrahayana* 17, 1897 (*Saka*)

## THE PRESS COUNCIL (REPEAL) ORDINANCE, 1975

No. 26 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to repeal the Press Council Act, 1965 and to provide for certain matters incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

**1. Short title and Commencement.**—(1) This Ordinance may be called the Press Council (Repeal) Ordinance, 1975.

(2) It shall come into force on the 1st day of January, 1976.

**2. Definition.**—In this Ordinance, unless the context otherwise requires—

(*a*) "appointed day" means the date on which this Ordinance comes into force;

(*b*) "Press Council" means the Press Council of India established under Section 3 of the Press Council Act, 1965, 34 of 1965.

**3. Repeal of Act 34 of 1965, and dissolution of Press Council.**—On the appointed day, the Press Council Act, 1965, shall stand repealed and the Press Council shall stand dissolved.

4. **Consequential provisions**.—On the dissolution of the Press Council,—

(*a*) all monies and other property of whatever kind (including the Fund of the Press Council) owned by, or vested in, the Press Council, immediately before the appointed day shall, on the appointed day, stand transferred to and vest in the Central Government;

(*b*) subject to the provisions of clause (*d*), any suit, appeal or other proceeding of whatever nature pending immediately before the appointed day before any court or other authority in which the Press Council is a party shall, on the appointed day, abate;

(*c*) any proceeding of whatever nature pending immediately before the appointed day before the Press Council shall, on the appointed day, abate;

(*d*) all liabilities and obligations of the Press Council of whatever kind and subsisting immediately before the appointed day, shall, on and from the appointed day, be deemed to be the liabilities or obligations, as the case may be, of the Central Government, and any proceeding or cause of action pending or existing immediately before the appointed day by or against the Press Council in relation to such liability or obligation may as from the appointed day, be continued and enforced by or against the Central Government;

(*e*) any thing, or any action, which ought to have been done or taken by the Press Council before the appointed day with respect to the termination of services of its employees or with respect to any matter in relation thereto or arising therefrom, but not so done or taken by that Council, may, on and from the appointed day, be done or taken by the Central Government.

FAKHRUDDIN ALI AHMED,
*President.*

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K. K. SUNDARAM,
*Secy. to the Government of India*

Notification No LAW 99 LCA. 75

*Bangalore, dated 23rd December 1975.*

Ordered that the Prevention of Publication of Objectionable Matter Ordinance, 1975 (No. 28 of 1975) published in Part II Section I of the *Gazette of India* Extraordinary, dated 8th December 1975 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*nder Secretary to Government,*
56 *Department of Law and Parliamentary Affairs.*

GOVERNMENT OF INDIA

**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

**(Legislative Department)**

*New Delhi, the 8th December, 1975/Agrahayana 17, 1897 (Saka)*

THE PREVENTION OF PUBLICATION OF OBJECTIONABLE MATTER ORDINANCE 1975

No. 28 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to provide against the printing and publication of incitement to crime and other objectionable matter.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

### PRELIMINARY

**1. [illegible], extent and commencement:—** (1) This Ordinance may be called the Prevention of Publicati of Objectionable Matter Ordinance, 1975.

(2) It extends to the whole of India.

(3) It shall come into force at once.

**2. Definitions and construction:**—(1) In this Ord nance, unless the context otherwise requires,—

(*a*) "book" includes every volume, part or divisic of a volume, pamphlet and leaflet, in any langiage, ar every sheet of music, map, chart or plan separate printed, lithographed or otherwise mechanically pro luce

(*b*) "Code" means the code of Criminal Procedur 1973 (2 of 1974)

(*c*) "competent authority" means a compete authority appointed under Section 4;

(*d*) "document" includes also any printin drawing or photograph or other visible representation;

(*e*) "newspaper" means any periodical wo containing public news or comments on public news;

(*f*) "news-sheet" means any document oth than a newspaper containing public news or comments public news;

(*g*) "press" means a printing press and includ all plant, machinery, duplicators, types, implements a other materials used for the purpose of, or in connectio with, printing or multiplying documents;

(*h*) "Press Registration Act" means the Press a Registration of Books Act, 1867 (25 of 1867);

(*i*) "State Government", in relation to a Uni territory, means the administrator thereof appoint under article 239 of the Constitution;

(*j*) "unauthorised newspaper" means—

(i) any newspaper in respect of which security has been required under this Ordinance but has not been furnished as required, or

(ii) any newspaper which is published without conforming to the rules laid down in Section 5 of the Press Registration Act;

(*k*) "unauthorised news-sheet" means any news sheet in respect of which security has been required from the publisher thereof under this Ordinance but has not been furnished as required or any news-sheet which does not contain the name of the printer and the publisher;

(*l*) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under Section 4 of the Press Registration Act;

(*m*) any expression used but not defined in this Ordinance shall,—

(i) if such expression is defined in the Code, have the same meaning as in the Code; and

(ii) if such expression is not defined in the Code but defined in the Indian Penal Code, (45 of 1860) have the same meaning as in the Indian Penal Code.

(2) For the purposes of this Ordinance, where different editions of the same newspaper or news-sheet are published, each such edition shall be deemed to be a separate newspaper or news sheet.

(3) Any reference in this Ordinance to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

(4) Any reference in this Ordinance to any officer or authority shall, in relation to any area in which there is no officer or authority with the same designation, be construed as a reference to such officer or authority as may be specified by the Central Government by notification in the Official Gazett

3. "Objectionable matter" defined:—In this Ordinance, the expression "objectionable matter" means any words, signs or visible representations.

(a) which are likely to—

(i) bring into hatred or contempt or excite disaffection towards the Government established by law in India or in any State thereof and thereby cause or tend to cause public disorder ; or

(ii) incite any person to interfere with the production, supply or distribution of food or other essential commodities or with essential services ; or

(iii) seduce any member of the Armed Forces or the Forces charged with the maintenance of public order from his allegiance or his duty or prejudice the recruiting of persons to serve in any such Force or prejudice the discipline of any such Force ;

(iv) promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities ; or

(v) cause fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or

(vi) incite any person or any class or community of persons to commit murder, mischief or any other offence ; or

(b) which—

(i) are defamatory of the President of India, the Vice-President of India, the Prime Minister or any other member of the Council of Ministers of the Union, the Speaker of the House of the People or the Governor of a State ;

(ii) are grossly indecent, or are scurrilous or obscene or intended for blackmail.

*Explanation I.*—Comments expressing disapprobation or criticism of any law or of any policy or administrative

action of the Government with a view to obtain its alteration or redress by lawful means, and words pointing out, with a view to their removal by lawful means, matters which are producing, or have a tendency to produce disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall not be deemed to be objectionable matter within the meaning of this section.

*Explanation II.*—In considering whether any matter is objectionable matter under this Ordinance, the effect of the words, signs or visible representations, and not the intention of the keeper of the press or the publisher or editor of the newspaper or news-sheet as the case may be shall be taken into account.

**4. Appointment of competent authorities :**—(1) The Central Government may, by notification in the Official Gazette, appoint such officers (being officers of the Central Government, not below the rank of a Deputy Secretary to that Government or officers of State Governments or Administrations of Union territories not below the rank of a District Magistrate) as it deems fit to be competent authorities for the purposes of this Ordinance and specify the local limits of their jurisdiction.

(2) An officer appointed under sub-section (1) may exercise the powers of a competent authority under this Ordinance in relation to presses situated and news papers and news-sheets published within the local limits of his jurisdiction, the keepers of such presses and the publishers and editors of such newspapers.

## CHAPTER I

### PROHIBITION OF PREJUDICIAL PUBLICATION

**5. Power to control prejudicial publications:**—(1) The Central Government or the competent authority, if satisfied that action is necessary for the purpose of preventing or combating—

(a) any activity prejudicial to the interests of sovereignty and integrity of India, security of the State,

friendly relations with foreign State, public orde decency or morality ; or

(b) any activity involving or likely to involve c culminate in incitement to offences,

may, by order in writing addressed to the keeper c any press or any publisher or editor, prohibit the printin or publication in any document or any class of document of any matter relating to a particular subject or class c subjects for a specified period (not exceeding two montl from the date of communication of the order) or in particular issue or issues of a newspaper or periodical.

(2) An order made under sub-section (1) shall nc take effect until it is communicated to the person, agains whom it is made.

(3) When any order is made by the competent authc rity under sub-section (1) against any person the competen authority shall forthwith report the fact to the Centr Government together with the grounds on which the orde has been made and such other particulars as in his opinio have a bearing on the matter and the Central Governmen may, if satisfied after making such enquiry, if any, as may deem fit, that it is proper so to do, set aside the order or modify such order to the advantage of the person.

(4) Without prejudice to the provisions of sub-section (3), any person aggrieved by an order made under sub-section (1) may within ten days of the communicatio of the order to him, make a representation to the Centra Government and the Central Government may, after making such enquiry as it may deem fit and after taking into account the action, if any, taken by it under sub-section (3) in respect of such order, dispose of the matter confirming, modifying or setting aside the order or, as the case may be, confirming such action :

Provided that if the person making the representatio makes a request in his representation that he should b given an opportunity to be heard, the Central Governmen

or the State Government as the case may be, shall not dispose of the matter without giving to such person such opportunity.

(5) If within a period of seven days from the date of receipt of a representation under sub-section (4), the Government fails to confirm modify or set aside the order against which the representation is made, the order shall, unless sooner set aside under sub-section (3), be deemed to have been set aside on the expiry of that period.

*Explanation*.—In computing the said period of seven days,—

(*a*) public holidays, that is to say, days on which the offices of the Government remain closed; and

(*b*) any time allowed to the person making the representation in compliance with his request to be heard; and

(*c*) any period during which the representation could not be disposed of by reason of any injunction or order of any court (including the day on which such order or injunction was issued or made and the day on which it was withdrawn).

shall be excluded

**6. Forfeiture of publications made in contravention of orders under Section 5.**—In the event of disobedience of an order made under Section 5, the Central Government or the competent authority issuing the order may, without prejudice to any other penalty, to which the person guilty of the disobedience of the order is liable under this Ordinance or under any other law for the time being in force, direct that copies of the publication made in disobedience of such order be seized, and that any printing press or other instrument or apparatus used in the publication be closed down for the period such order is in operation.

**7. Penalty for contravention of orders under Section 5.**—Whoever contravenes, disobeys or neglect to

comply with any order made under Section 5 shall, on conviction, be punished with imprsonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

## CHAPTER III

### PREVENTION OF PRINTING AND PUBLICATION OF OBJECTIONABLE MATTER

**8. Power to demand security from presses in certain cases:**—Whenever it appeas to the competent authority that any press has been used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing objectionable matter, and that there are sufficient grounds for demanding security from the keeper of the press under this section, the competent authority shall, by order in writing, direct the keeper of the press to deposit as security, within twenty-one days from the date of the order, such amount as the competent authority may think fit to require :

Provided that if, having regard to all the circumstances of the case, the competent authority is satisfied that the requirements of the case will be met by a warning, the competent authority may, instead of demanding security, record, by order in writing, such warning.

**9. Power to forfeit security or demand further security from presses:**—Whenever it appears to the competent authority that any press in respect of which any security has been ordered to be deposited under section 8 or under this section is thereafter used for the purpose of printing or publishing any news paper, news sheet, book or other document containing objectionable matter, the competent authority shall, by order in writing, declare such security as has been deposited, or any portion thereof to be forfeited to the Central Government or direct the keeper of the press to deposit, within twenty-one days from the date of the

order, such further security as the competent authority may deem fit to require and may also, in either case, declare all copies of the newspaper, news-sheet, book or other document containing such objectionable matter, wherever found in India, to be forfeited to the Central Government.

**10. Consequences of failure to deposit security as required under section 8 or section 9** :—(1) Where the keeper of the press is required under section 8 or section 9 to deposit any amount as security and the deposit is not made within the time allowed—

(*a*) the declaration made by the keeper of the press under the Press Registration Act shall be deemed to be annulled; and

(*b*) notwithstanding anything contained in the Press Registration Act, neither the said keeper of the press nor any other person shall make or be allowed to make a fresh declaration before a Magistrate under that Act in respect of the press, unless the amount required to be deposited as security by the keeper of the press under section 8 or section 9 is deposited by the keeper of the press or such other person; and

(*c*) the press shall not be used for printing or publishing of any newspaper, news-sheet, book or other document until the deposit has been made.

(2) If any press is used in contravention of clause (c) of sub-section (1) any Judicial Magistrate may on a complaint made to him in this behalf by the competent authority direct the keeper of the press to show cause why it should not be forfeited and after hearing him and on being satisfied that there are sufficient grounds for passing the order, declare the press or any part thereof to be forfeited to the Central Government:

Provided that the press or any part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture, and if

the keeper of the press makes the required deposit withi
the aforesaid period, the press or the part thereof shall b
returned to the keeper of the press.

11. **Power to demand security from publishers o
newspapers and news-sheets in certain cases:**—Whenev
it appears to the competent authority that a newspaper
or news-sheet contains any objectionable matter, and th
there are sufficient grounds for demanding security
respect of the newspaper or news-sheet under this sectio
the competent authority shall by order in writing, direc
the publisher of the newspaper or news-sheet to deposi
within twenty-one days from the date of the order, a
security in respect of the newspaper or news-sheet, suc
amount as the competent authority may think fit
require ;

Provided that if, having regard to all the circumst
ances of the case, the competent authority is satisfied tha
the requirements of the case will be met by a warning, th
competent authority may, instead of demanding security
record, by order in writing, such warning.

12. **Power to forfeit or demand further security fro
publishers of newspapers and news-sheets.**—Whenever
appears to the competent authority that any newspaper o
news-sheet in respect of which any security has bee
ordered to be deposited by the publisher under section
or under this section thereafter publishes any objectionabl
matter, the competent authority shall by order in writin
declare such security as has been deposited or any portio
thereof to be forfeited to the Central Government or dire
the publisher of the newspaper or news-sheet to depos
within twenty-one days from the date of the order su
further security as the competent authority may deem
to require and may also, in either case, declare all copi
of the newspaper or news-sheet containing such objectio
able matter, wherever found in India, to be forfeited
the Central Government.

13. **Consequences of failure by publisher to deposit security as required under section 11 or section 12.**—(1) Where the publisher of a newspaper is required under section 11 or section 12 to deposit any amount as security in respect of any newspaper and the deposit is not made within the time allowed,—

(*a*) the declaration made by the publisher of the newspaper under section 5 of the Press Registration Act shall be deemed to be annulled; and

(*b*) notwithstanding anything contained in the Press Registration Act, neither the said publisher nor any other person shall make, or be allowed to make, a fresh declaration before a Magistrate under section 5 of that Act as publisher of that newspaper or any other newspaper which is the same in substance as that newspaper, unless the amount required to be deposited by the publisher of the newspaper under section 11 or section 12 is deposited by the said publisher or such other person.

(2) Where a deposit is required from the publisher of a newspaper or news-sheet under section 11 or section 12, no press shall, after the expiry of the time allowed to make the deposit, be used for the printing of such newspaper or news-sheet, until the deposit has been made.

(3) The keeper of any press who knowingly contravenes the provisions of sub-section (2) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, and where such keeper is convicted for a second or subsequent contravention of that sub-section in respect of the same newspaper or news-sheet, the court may also direct that the press or any part thereof shall be forfeited to the Central Government

Provided that the press or part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture and, if the keeper of the press makes the required deposit within the aforesaid period, the press or part thereof, as the case may be, shall be returned to the keeper of the press.

**14. Power to demand security from editors of newspapers and news-sheets in certain cases:**—Whenever it appears to the competent authority that a newspaper or news-sheet contains any objectionable matter and that there are sufficient grounds for demanding security from the editor of the newspaper or news-sheet under this section, the competent authority shall, by order in writing, direct the editor of the newspaper or news-sheet to deposit, within twenty-one days from the date of the order, such amount as the competent authority may think fit to require:

Provided that if, having regard to all the circumstances of the case, the competent authority is satisfied that the requirements of the case will be met by a warning to the editor, the competent authority may, instead of demanding security, record, by order in writing, such warning.

**15. Power to forfeit security or demand further security from editors of newspapers and news-sheets:**—Whenever it appears to the competent authority—

(*a*) that any newspaper or news-sheet contains any objectionable matter,

(*b*) that the editor of such newspaper or news-sheet has been ordered to deposit security (whether as editor of the same newspaper or news-sheet or of any other newspaper or news-sheet) under section 14 or this section,

the competent authority shall, by order in writing, declare such security as has been deposited by such editor or any portion thereof to be forfeited to the Central Government or direct such editor to deposit within twenty-one days from the date of the order such further security as the competent authority may deem fit to require.

**16. Amount of security and manner of deposit:**—(1) The Amount of security which may be required to be deposited under any of foregoing section of this

Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) The amount of security directed to be deposited under any of the foregoing sections of this Chapter shall be deposited in money or the equivalent thereof in Government securities in accordance with such order as the Central Government may, by notification in the Official Gazette, make, with such authority or agency as may be specified in such order.

**17. Procedure, etc., to be followed by the competent authority:**—(1) The competent authority shall not make any order under section 8, section 9, section 11, section 12, section 14 or section 15, unless he is satisfied, upon a complaint made to him in writing by the proper officer and inquiry made in the manner provided in this section, that it is necessary to make such order.

*Explanation*—In this sub-section, "proper officer" means any officer empowered by the Central Goverment or a State Government, by general or special order in writing to make complaints under this section.

(2) Every complaint to the competent authority under sub-section (1) against any person (hereafter in this section referred to as the respondent) shall state or describe the objectionable matter in respect of which the complaint is made and, where it is desired that security should be demanded from the respondent, shall specify the amount of security which, in the opinion of the officer making the complaint, should be so demanded.

(3) On receipt of a complaint under sub-section (1) the competent authority may, after making such preliminary inquiry, if any, as he may deem necessary issue notice thereof to the respondent.

(4) When the respondent appears before the competent authority in compliance with a notice under sub-section 3), the competent authority shall settle the points for determination and proceed to inquire into the complaint

and, after taking such evidence as may be produced and after hearing the parties, make such order as he may deem fit.

(5) The competent authority shall inquire into the complaint, as nearly as practicable, in the manner prescribed for conducting trials in summons cases by Magistrates under the Code.

(6) If, on the day appointed for the appearance of the respondent or any day subsequent thereto which the inquiry may be adjourned, the respondent does not appear the competent authority may proceed to hear the complaint and take all such evidence, if any, as may be produced in support of the complaint and make such orders under this Ordinance as he may deem fit.

Provided that if, on an application made by the respondent within fifteen days of the date of the *ex parte* order, the competent authority is satisfied that there are sufficient grounds, he may set aside the order and make a fresh inquiry into the complaint.

(7) In any inquiry before the competent authority with reference to any newspaper or news-sheet, any previous or subsequent issue of such newspaper or news-sheet may be given in evidence in aid of the proof of the nature and effect of the words, signs or visible representation in respect of which the complaint is made.

(8) For the purpose of hearing and disposing of complaints under this section, the competent authority shall have all the powers of a Judicial Magistrate of the first class under the Code.

**18. Revision by and appeals to Central Government.** (1) When any orders is made by the competent authority under this Chapter against any person, the competent authority shall forthwith report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion

of the competent authority have a bearing on the matter and the Central Government may, if satisfied after making such inquiry, if any, as it may deem fit that it is proper so to do, set aside such order or modify such order to the advantage of such person.

(2) Without prejudice to the provisions of sub-section (1), any person aggrieved by an order of the competent authority under this Chapter may, within thirty days of the making of such order, prefer an appeal to the Central Government and the Central Government may after making such inquiry as it may deem fit and after taking into account the action, if any, taken by it under sub-section (1) in respect of such order, dispose of the appeal confirming, modifying or setting aside the order or as the case may be, confirming such action;

Provided that before confirming any such order or modifying it to the disadvantage of the appellant, the Government shall give an opportunity to the appellant to represent his case.

(3) On the disposal of the appeal, the Government shall communicate the order made by it to the appellant and the competent authority.

(4) If within a period of sixty days from the date of receipt of an appeal under sub-section (1), the Government fails to confirm, modify or set aside the order appealed against, the order shall, unless sooner set aside under sub-section (1), be deemed to have been set aside on the date of the expiry of the said period.

*Explanation*.—In computing the said period of sixty days, any period during which the Government could not dispose of the appeal by reason of any injunction or order of any Court (including the day on which such injunction or order was issued or made and the date on which it was withdrawn) shall be excluded.

## CHAPTER IV

### PREVENTION OF CIRCULATION AND DISTRIBUTION OF OBJECTIONABLE MATTER.

**19. Power of Government to declare certain publications forfeited.**—Where it appears to the Central Government that any issue of a newspaper or news-sheet or any book or other document, wherever made, contains any objectionable matter, that Government may, by notification in the Official Gazette, stating the grounds for the order, declare that every copy of such issue of the news-paper or news-sheet or of such book or document shall be forfeited to the Government.

**20. Power to detain packages containing certain publications when imported.**—(1) Any officer of customs under the Customs Act, 1962 (52 of 1962) or any other officer empowered by a general or special order of the Central Government in this behalf may detain any package imported into India in which he suspects there are newspapers, news-sheets, books or other documents containing objectionable matter and shall forthwith forward copies of any such newspaper, news-sheet, book or other documents found therein to such officer as the Central Government may appoint in this behalf to be disposed of in such manner as the Central Government may direct.

(2) Any person aggrieved by any action taken under sub-section (1) may apply, within fourteen days from the date on which such action is taken, to the Central Government for review and the Central Government may pass such orders thereon as it thinks fit.

**21. Prohibition of transmission by post of certain documents.**— (1) No news-paper, news-sheet, book or other documents which has beed declared to be forfeited under any of the provisions of this Ordinance and no unauthorised news-paper or unauthorised news-sheet shall be transmitted by post.

(2) Any officer in charge of a post office authorised by the Central Government in this behalf may detain in course of transmission by post any article other than a letter which he suspects to contain any document as is mentioned in sub-section (1) and shall deliver all such articles to such officer as the Central Government may appoint in this behalf.

(3) If the officer to whom any article is delivered under sub-section (2) is satisfied that the article contains any such document as is mentioned in sub section (1), he may pass such orders as to the disposal of the article and its contents as he deems proper, and, if he is not satisfied, he shall return the article to the post office for transmissions to the addressee.

**22. Power to seize and destroy unauthorised newspapers and news sheets.**—(*1*) Any police officer or any other officer empowered in this behalf by a State Government may seize any unauthorised or news paper unauthorised news-sheet in the State.

(2) Any Metropolitan Magistrate, Chief Judicial Magistrate or a Magistrate of the first-class may, by warrant, authorise any police officer, not below the rank of a sub inspector, to enter upon and search any place where any stock of unauthorised newspaper or news-sheets may be, or may be reasonably suspected to be, and such police officer may seize any documents found in such place which, in his opinion, are unauthorised newspapers or unauthorised news-sheets.

(3) All documents seized under sub-section (1) shall be produced, as soon as may be, before a Metropolitan Magistrate, a Chief Judicial Magistrate or a Magistrate of the first class and all documents seized under sub-section (2) shall be produced, as soon as may be, before the Court of the Magistrate who issued the warrant.

(4) If in the opinion of such Magistrate or Court any of such documents are unauthorised newspapers or unauthorised news-sheets, the Magistrate or Court may cause

them to be destroyed, but if, in the opinion of such Magistrate or Court any of such documents are not unauthorised newspapers or unauthorised news-sheets such Magistrate or Court shall dispose of them in the manner provided in sections 457, 458 and 459 of the Code.

23. **Power to seize and forfeit undeclared presses producing unauthorised newspapers and unauthorised news-sheets.**- (1) Where a Metropolitan Magistrate or a Chief Judicial Magistrate has reason to believe that an unauthorised newspaper or unauthorised news-sheet is being produced from an undeclared press within the local limits of his jurisdiction, he may, by warrant, authorise any police officer, not below the rank of a sub-inspector to enter upon and search any place where such undeclared press may be, or may be reasonably suspected to be and if, in the opinion of the police officer, any press found in such place is an undeclared press and is used to produce an unanthorised newspaper or unauthorised news-sheet, he may seize such press and any documents found in the place which, in his opinion, are unauthorised newspapers or unauthorised news-sheets.

(2) The police officer shall forthwith make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized:—

Provided that where any press which has been seized cannot be readily removed, the police officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may think requisite, is of opinion that a press seized under this section is an unauthorised press which is used to produce an unauthorised newspaper or news-sheet, it may, by order in writing, declare the press or any part thereof to be forfeited to the Central Government, but if after such inquiry the court is not of such opinion, it shall dispose of the press in the manner provided in sections 457, 458 and 459 of the Code.

(4) The Court shall deal with the documents produced before it under this section in the manner provided in sub-section (4) of section 22.

## CHAPTER V

### APPEALS AND APPLICATIONS TO HIGH COURT

**24. Appeals.**—(1) Any person aggrieved by an order passed under Section 18 may prefer an appeal to the High Court within the jurisdiction of which such person ordinarily resides or carries on business or personally works for gain.

(2) No appeal shall be entertained under sub-section (1) unless it is made within sixty days of the date of the order appealed against.

(3) Upon any appeal under this section, the High Court may pass such order as it deems fit confirming, varying or setting aside the order appealed from, and may pass such consequential or incidental order as may be necessary.

**25. Application to High Court against orders of forfeiture:**—(1) Any person aggrieved by an order of forfeiture passed by a Magistrate under sub-section (2) of Section 10 or sub-section (3) of Section 13 may within sixty days of the date of such order make an application to the High Court to which such Magistrate is subordinate.

(2) Any person aggrieved by an order of forfeiture passed under Section 19 or by an order under sub-section (2 of Section 20 may, within sixty days of the date of such order, make an application to the High Court within the jurisdiction of which such person ordinarily resides or carries on business or personally works for gain.

(3) The High Court to which any application is made under this section may pass such order as it deems fit

confirming, varying or setting aside the order in respect of which such application is made and may pass such consequential or incidental orders as may be necessary.

**26. Appeals and applications to be heard by a Bench of three Judges.**—Every appeal and every application to a High Court under this Chapter shall, where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists of less than three Judges, such Special Bench shall be composed of all the Judges of the High Court.

**27. Procedure in High Court.**—Every High Court may frame rules to regulate the procedure in respect of appeals and applications under this Chapter and until such rules are framed, the practice of such High Court in proceedings in respect of appeal and revision shall apply, in so far as may be practicable, to such appeals and applications.

## CHAPTER VI

### PENALTIES

**28. Penalty for keeping Press without making deposit:**—Whoever is the keeper of a press which is used for the printing or publishing of any newspaper, news-sheet, book or other document without making a deposit as required under Section 8 or Section 9 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both.

**29. Penalty for publishing news-paper or news-sheet without making deposit:** Whoever publishes any news-paper or news-sheet without making a deposit as required under Section 11 or Section 14 or publishes such newspaper or news-sheet knowing that such security has not been

deposited shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

30. **Penalty for acting as editor without making deposit:**—Whoever acts as an editor of a newspaper or news-sheet without making a deposit as required under Section 14 or Section 15 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

31. **Penalty for disseminating un-authorised newspapers and un-authorised news-sheets:**—Whoever sells or distributes or keeps for sale or distribution any unauthorised newspaper or unauthorised news-sheet knowing or having reason to believe that it was an unauthorised newspaper or an unauthorised news-sheet shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

## CHAPTER VII

### MISCELLANEOUS

32. **Service of notices:**—Every notice under this Ordinance shall be served in the manner provided for the service of summonses under the Code:

Provided that if service in such manner cannot, by the exercise of due diligence, be effected, the serving Officer shall, where the notice is directed to the keeper of the press, affix a copy thereof to some conspicuous part of the place where the press is situated, as described in the keeper's declaration under Section 4 of the Press Registration Act, and where the notice is directed to the publisher or editor of a newspaper, to a conspicuous part of the premises where the publication of such news-paper is conducted, as given in the publisher's declaration under

Section 5 of that Act and thereupon the notice shall be deemed to have been duly served.

33. **Issue of search warrants in certain cases:**— (*1*) Where any press or any copies of newspaper, news-sheet, book or other document are declared forfeited to the Central Government under this Ordinance, the Central Government may require a Magistrate to issue a warrant empowering any police officer, not below the rank of a sub-inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(*a*) where any such property may be or may be reasonably suspected to be, or

(*b*) where any copy of such newspaper, news-sheet, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

(2) Without prejudice to the provisions contained in sub-section (1), where any newspaper, news-sheet or other document is declared forfeited to Government, it shall be lawful for any police officer to seize the same, wherever found.

34. **Conduct of searches**:—Every warrant issued under this Ordinance shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code.

35. **Return of security in certain cases**:—(1) Where any keeper of a press or publisher or editor of a newspaper or news sheet has deposited any amount as security or further security as required under Section 8 or Section 9 or Section 11 or Section 12 or Section 14 or Section 15 and no further action has been taken in respect of the press or the publisher or the editor under this Ordinance for a period of two years from the date of such deposit, the person who made the deposit or any person claiming under

im may apply to the Central Government for the return the security in deposit.

(2) The Central Government shall, after making uch inquiry as it may deem fit and after being satisfied bout the claim of the applicant, direct the security to be eturned to the applicant.

**36. Application of provisions of Act 36 fof 1963** :— For the purpose of determining any period o limitation rescribed by this Ordinance for any application or appeal, he provisions of Sections 4 to 24 of the Limitation Act, 963 shall apply as they apply for determining the period f limitation prescribed for any appeal or application by he Schedule to that Act.

**37. Bar of jurisdiction and protection of action aken in good faith** :— Every declaration of forfeiture purportiug to be made under this Ordinance shall, as gainst all persons be conclusive evidence that the orfeiture therein referred to has taken place, and except is provided by this Ordinance—

(*a*) no proceeding taken or purporting to be taken under this Ordinance shall be called in question by or before any court; and

(*b*) no civil or criminal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Ordinance.

**38. Bar of double penalty** :—Notwithstanding anything contained in this Ordinance, no keeper of a press or publisher of any newspaper or news-sheet or editor of any newspaper or news-sheet shall be prosecuted under Section 29, Section 30 or Section 31, as the case may be, if for the same act or omission such person has been proceeded against under Section 8 or Section 9 or Section 11 or Section 12 or Section 14 or section 15, as the case may be, nor shall any such person be proceeded against under Section 8 or Section 9 or Section 11 or Section 12 or Section 14 or Section 15, as the case may be, if for the

same act or omission such person has been prosecuted under Section 29, Section 30 or Section 31, as the case may be.

**39. Cognizability of offences under this Ordinance:** — Notwithstanding anything contained in the Code, any offence punishable under this Ordinance and any abetment of such offence shall be cognizable and bailable.

**40. Repeal** :—Sections 6, 7 and 8 of the Criminal and Election Laws Amendment Act, 1969 (35 of 1969) are hereby repealed.

FAKHRUDDIN ALI AHMED,
*President.*

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K. K. SUNDARAM,
*Secretary to the Government of India.*

Printed by the Director of Printing, Stv. & Publications at the Govt. Press, Pl...

# PART IV

SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

Notification No. LAW. 5 LCA. 76.

*Bangalore, dated 11th February 1976.*

Ordered that the Income Tax (Amendment) Act, 1976 (1 of 1976) Published in Part II, Section I of the Gazette of India Extraordinary, dated 23rd January 1976 be republished in the *Karnataka Gazette*, for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

*Under Secretary to Government*

64 *Department of Law and Parliamentary Affairs*

Assented to on 22nd January 1976 Act No. 1 of 1976

## THE INCOME-TAX (AMENDMENT) Act 1976

AN

ACT

*further to amend the Income-tax Act, 1961*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :

**1. Short title and commencement.**—(1) This Act may be called the Income-tax (Amendment) Act, 1976

(2) It shall be deemed to have come into force on the 9th day of September, 1975.

2. **Amendment of section 80 G.**-- In clause (a) of sub-section (2) of section 80 G of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the principal Act), after sub clause (iii), the following sub-clause shall be inserted, namely :—

"(iii-a) the Prime Minister's National Relief Fund : or".

3 **Repeal and saving.**— 1) The Income tax (Amendment) Ordinance, 1975 (8 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

———

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lon

# PART IV

## Section 1-B

## CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY SECRETARIAT

Notification No. LAW. 4 LCR. 1976.

*Bangalore, dated the 6th March 1976.*

Ordered that the S. O. No. F. 21/1/75-AEI-I (III dated 10th February 1976 published in Part II, Section III sub-section (ii) of the *Gazette of India*, Extraordinary date 10th February 1976 be republished in the *Karnataka Gazett* for general information.

By Order and in the name of the Governor of Karnataka

B. NAGESHA RAO,
*Under Secretary to Government,*
68 *Dept. of Law and Parly. Affairs.*

GOVERNMENT OF INDIA

**MINISTRY OF INDUSTRY AND CIVIL SUPPLIES**

**Department of Heavy Industry.**

ORDER

*New Delhi, the 10th February 1976.*

S. O. .—In exercise of the powers conferred by Section 18 ( of the Industries (Development and Regulation) Act, 1951 (65 of 1951) the Central Government hereby rescinds, with immediate effect, th Motor Cars (Distribution and Sale) Control Order, 1959, except a respects things done or omitted to be done before such rescission.

F. No. 21/1/75-A.E.I. (III)
S. M. GHOSH,
Joint Secretary to the Government of India.

"COPY"

M. BALAJI RAO,
*Section Officer,*
*Dept. of Law and Parly. Affairs.*

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

# PART IV

## Section 1-B

### CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 8 LCA 1976.

*Bangalore, dated the 18th March 1976.*

Ordered that the Comptroller and Auditor General' (Duties, Powers and Conditions of Service) Amendmen Ordinance, 1976 published in Part II, Section 1 of th Gazette of India, Extraordinary, dated 1st March 1976 b republished in the *Karnataka Gazette* for genera information.

By Order and in the name of the Governor of Karnataka

B. NAGESHA RAO,

***Under Secretary to Government,***

*Department of Law and Parliamentary Affairs*

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

*New Delhi, the 1st March, 1976, Phalguna 11, 1897 (Saka)*

## THE COMPTROLLER AND AUDITOR-GENERAL'S (DUTIES, POWERS AND CONDITIONS OF SERVICE) AMENDMENT ORDINANCE, 1976

NO. 1 OF 1976

Promulgated by the President in the Twenty-seventh Yea of the Republic of India

An Ordinance to amend the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

WHEREAS Parliament is not in session and the Presi dent is satisfied that circumstances exist which render i necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferre by clause (1) of article 123 of the Constitution, the Presi dent is pleased to promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ord nance may be called the Comptroller and Auditor General' (Duties, Powers and Conditions of Service) Amendmen Ordinance, 1976.

(2) It shall come into force at once.

2. **Act 56 of 1971 to be temporarily amended.**—Dur ing the period of operation of this Ordinance, the Comptro ller and Auditor-General's (Duties, Powers and Condition of Service) Act, 1971 (hereinafter referred to as the principa Act) shall have effect subject to the amendments specifie in Sections 3 to 5.

3. **Amendment of section 10** —In section 10 of th principal Act, in sub-section (1) —

(*a*) for the first proviso, the following provisos shal be substituted, namely:—

"Provided that the President may, afte consultation with the Comptroller and Auditor-General by order, relieve him from the responsibility for compiling

(i) the said accounts of the Union (either at once o gradually by the issue of several orders); or

(ii) the accounts of any particular services o departments of the Union:

Provided further that the Governor of a Stat may with the previous approval of the President and afte consultation with the Comptroller and Auditor-General b order, relieve him from the responsibility for compiling–

(*i*) the said accounts of the State (either at once o gradually by the issue of several orders); or

(*ii*) the accounts of any particular services or departments of the State:";

(*b*) in the second proviso, for the words "Provided further", the words "Provided also" shall be substituted.

**4. Amendment of section 11.**—In section 11 of the principal Act, for the words "by any other person responsible in that behalf", the words "by the Government or any other person responsible in that behalf", shall be substituted.

**5 Amendment of section 22.**—In section 22 of the principal Act,—

(*a*) in clause (b) of sub-section (2) after the words "the accounts of", the words "the Union or of a State or of" shall be inserted ;

(*b*) in sub-section (3) for the words "in two successive sessions", the words "in two or more successive sessions", and for the words "the session in which it is so laid or the session immediately following", the words "the session immediately following the session or the successive sessions aforesaid" shall be substituted.

FAKHRUDDIN ALI AHMED,
*President.*

K. K. SUNDARAM,
*Secy. to the Govt. of India.*

LAW AND PARLIAMENTARY AFFAIRS SECRETARIA

Notification No. LAW 9 LCA 76

*Bangalore, dated the 19th March 1976.*

Ordered that the Departmentalisation of Union Accounts (Transfer of Personnel) Ordinance, 1976 (No. 2 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 1st March 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

*Under Secretary to Government.*

72 *Department of Law and Parly. Affairs.*

GOVERNMENT OF INDIA

**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

**(Legislative Department)**

*New Delhi, the 1st March , 1976/Phalguna 11, 1897 (Saka)*

THE DEPARTMENTALISATION OF UNION ACCOUNTS (TRANSFER OF PERSONNEL) ORDINANCE, 1976

No. 2 OF 1976

*Promulgated by the President in the Twenty-seventh Year of the Republic of India.*

An Ordinance to provide for the transfer of officers serving in the Indian Audit and Accounts Department to any Ministry, Department or office of the Central Government for facilitating the efficient discharge by such Ministry, Department or office of the responsibility in connection with compiling the accounts thereof.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action :

NOW, THEREFORE, in exercise of the powers conferred by clause (1 of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. (*1*) **Short title and commencement.** —This Ordinance may be called the Departmentalisation of Union Accounts (Transfer of Personnel) Ordinance, 1976.

(*2*) It shall come into force at once.

2 (1) **Transfer of officer and employees of the Indian Audit and Accounts Department** —Where the President has, by order under the first proviso to sub-section (*1*) of section 10 of the Comptroller and Auditor-General's (Duties, Powers and Conditions of service) Act 1971 (56 of 1971) provided for relieving, with effect from any date (hereinafter referred to as the prescribed date), the Comptroller and Auditor-General from the responsibility for compiling any accounts of the Union or of any services or departments of the Union as may be specified in such order, than, subject to the provisions of this Ordinance, it shall be lawful for the Central Government, on the advice of a Committee established under sub-section (2), to transfer, by order and with effect from such date or dates (which may be either retrospective to any date not earlier than the prescribed date or prospective) as may be spacified in the order, to any Ministry, Department of the Central Government or any of its attached or subordinate offices, any of the officers or employees serving in the Indian Audit and Accounts Department, for the purpose of facilitating the efficient discharge by such Ministry, Department or office of the responsibility of compiling such accounts :

Provided that no order under this sub-section shall be made in relation to any such officer or employee serving in the Indian Audit and Accounts Department who has, in

respect of the proposal made on the advice of the Committee to transfer such officer or employee under this sub-section, intimated, within such time as may be specified in this behalf, his unwillingness to be so transferred, unless the Central Government is of opinion that it is necessary in the public interest to transfer such officer or employee as aforesaid :

Provided further that nothing in this sub-section shall affect the right of any such officer or employee to resign or retire from service in accordance with the rules applicable to him in the Indian Audit and Accounts Department.

(2) The Central Government may, by order, establish one or more Advisory Committees consisting of such number of members as it thinks fit for the purpose of assisting it in regard to the transfer of officers and employees under sub-section (1)

(3) An officer or other employee transferred to any Ministry, Department or Office of the Central Government by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an Officer or employee in the Indian Audit and Accounts Department and shall subject to the provisions of sub-section (4) and of any law or rules made under Chapter I of Part XIV of the Constitution, hold Office in such Ministry, Department or Office with such designation as the Central Government may specify.

(4) Every Officer or employee transferred under sub-section (1) shall be entitled to be appointed to a post carrying a scale of pay not less favourable than that of the post which he held immediately before the date of such transfer and in the same capacity (whether substantive or officiating) in which he held the post last mentioned

Provided that if immediately before the date of such transfer any such Officer or employee is officiating in a higher post in the Indian Audit and Accounts Department either in a leave vacancy or in any other vacancy of a specified duration, his pay, on transfer, shall be protected for the unexpired period of such vacancy.

FAKHRUDDIN ALI AHMED,
*President*.

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K. K. SUNDARAM,
*Secy. to the Govt. of India*.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

# PART IV

## Section 1-B

## CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 15 LCA 76.

*Bangalore, dated 5th April 1976.*

Ordered that the Maintenance of Internal Security (Amendment) Act, 1976 (Act No. 14 of 1976) published in Part II, Section I of the Gazette of India, Extraordinary dated 25th January 1976, be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government.*
*Dept. of Law and Parliamentary Affairs.*

## THE MAINTENANCE OF INTERNAL SECURITY (AMENDMENT) Act 1976

AN

ACT

*further to amend the Maintenance of Internal Security Act, 1971.*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Maintenance of Internal Security (Amendment) Act, 1976.

2. **Amendment of section 3.**—In section 3 of the Maintenance of Internal Security Act, 1971 (26 of 1971) (hereinafter referred to as the principal Act), in sub-section (3), for the words "twelve days" at both the places where they occur, the words "twenty days", and for the words

"twenty-two days", the words "twenty five days", shall be substituted, and shall be deemed to have been substituted with effect from the 25th day of June 1975.

3. **Amendment of section 14.**—In section 14 of the prinicipal Act, for sub-section (2), the following sub-section shall be substituted, and shall be deemed to have been substituted with effect from the 29th day of June, 1975, namely :—

"(2) The expiry or revocation of a detention order (hereafter in this sub-section referred to as the earlier detention order) shall not bar the making of another detention order (hereafter in this sub-section referred to as the subsequent detention order) under section 3 against the same person :

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order or the expiry of the Defence and Internal Security of India Act, 1971, (42 of 1971) whichever is later.".

4. **Amendment of section 16A.**—In section 16A of the principal Act,—

(a) after sub-section (2), the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 29th day of June, 1975, namely :—

"(2A) If the State Government makes a declaration under sub-section (2) that detention of any person in respect of whom a detention order is made by an officer subordinate to that Government is necessary for dealing effectively with the emergency, the State Government shall be deemed to have approved such detention order and the provisions of sub-section (3) of section 3, in so far as they relate to the approval of the State Government and of sub-section (4) of that section, shall not apply to such detention order."

(b) for sub-section (5), the following sub-section shall be substituted, and shall be deemed to have been substituted with effect from the 29th day of June, 1975, namely:—

"(5) In making any review, consideration or re consideration under sub-section (2), sub-section (3) or sub-section (4), the appropriate Government or officer may act on the basis of the information and materials in its or his possession without communicating or disclosing any such information or materials to the person concerned or affording him any opportunity of making any representation against the making under sub-section (2), or the making or confirming under sub-section (3), or the non-revocation under sub-section (4) of the declaration in respect of him.";

(c) in sub-section (7), in clause (i),

(i) in the opening portion, for the words ... following sub-section", the words "the following" shall be substituted, and shall be deemed to have been substituted with effect from the 29th day of June, 1975;

(ii) in sub-section (3), as substituted by the clause, for the words "forward to the Central Government a report in respect of the order", the words "report the fact to the Central Government" shall be substituted, shall be deemed to have been substituted with effect from the 29th day of June, 1975;

(iii) after sub-section (3) aforesaid, the following shall be inserted, and shall be deemed to have been inserted, with effect from the 17th day of October, 1974, namely:—

"(4) At any time after the receipt of a report under sub-section (3), the Central Government may require the State Government to furnish to the Central Government the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order."

(d) after sub-section (7), the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 29th day of June, 1975 namely —

"(8) In the case of any person in respect of whom a declaration has been made by a State Government under sub section (2) or a declaration has been made by a State Government or an officer subordinate to it or confirmed by the State Government under sub-section (3), or a declaration has not been revoked by a State Government under sub-section (4), the Central Government may whenever it considers it necessary so to do, require the State Government to furnish to the Central Government the information and materials on the basis of which such declaration has been made or confirmed, or not revoked as the case may be, and such other information and materials as the Central Government may deem necessary.

(9) Notwithstanding anything contained in any other law or any rule having the force of law. —

(a) the grounds on which an order of detention is made or purported to be made under section 3 against any person in respect of whom a declaration is made under sub-section (2) of sub-section (3) and any information or materials on which such grounds or a declaration under sub-section (2) or a declaration or confirmation under sub-section (3) or the non-revocation under sub-section (4) of a declaration are based, shall be treated as confidential and shall be deemed to refer to matters of State and to be against the public interest to disclose and save as otherwise provided in this Act, no one shall communicate or disclose any such ground information or material or any document containing such ground information or material;

(b) no person against whom an order of detention is made or purported to be made under section 3 shall be entitled to the communication or disclosure of any such ground, information or material as is referred to in clause (a) or the production to him of any document containing such ground, information or material.'

5. **Amendment of Section 18.**—In section 18 of the principal Act, for the words "detained under this Act", the words and figure "in respect of whom an order is made or purported to be made under section 3' shall be substituted, and shall be deemed to have been substituted with effect from the 25th day of June, 1975.

6. **Validation.**—Any act or thing done or purporting to have been done before the 16th day of November, 1975, under the principal Act in respect of any person against whom an order of detention was made under that Act on or after the 25th day of June, 1975 or in respect of any such order of detention shall, for all purposes, be deemed to be as valid and effective as if the amendments made to the principal Act by sections 2 and 3, and clause (a) of section 4, of this Act had been in force at all material times.

7. **Repeal and saving.**—(1) The Maintenance of Internal Security (Third Amendment) Ordinance, 1975, (16 of 1975), and the Maintenance of Internal Security (Fourth Amendment) Ordinance, 1975, (22 of 1975) are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act

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# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 10 LCA 76.

*Bangalore, dated 3rd April 1976.*

Ordered that the Sales Promotion Employees (Condition of Service) Act, 1976 published in Part II, Section 1 of the Gazette of India, Extraordinary, dated 25th January 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

*Under Secretary to Government,*

2 *Department of Law and Parliamentary Affairs.*

## THE SALES PROMOTION EMPLOYEES (CONDITIONS OF SERVICE) ACT, 1976

**Assented to on 25th January 1976 as Act No. 11 of 1976.**

An

ACT

*to regulate certain conditions of service of sales promotion employees in certain establishments*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

**1. Short title extent, commencement and application.**—(1) This Act may be called the Sales Promotion Employees (Conditions of Service) Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

(4) It shall apply in the first instance to every establishment engaged in pharmaceutical industry

(5) The Central Government may, by notification in the Official Gazette, apply the provisions of this Act, with effect from such date as may be specified in the notification, to any other establishment engaged in any notified industry.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "establishment" means an establishment engaged in pharmaceutical industry or in any notified industry;

(*b*) "notified industry" means an industry declared as such under section 3;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) "sales promotion employee" means any person by whatever name (called including an apprentice) employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, and—

(i) who draws wages (being wages, not including any commission) not exceeding seven hundred and fifty rupees per mensem; or

(*ii*) who had drawn wages (being wages, including commission), or commission only, in either case, not exceeding nine thousand rupees in the aggregate in the twelve months immediately preceding the month in which this Act applies to such establishment and continues to draw such wages or commission, in the aggregate, not exceeding the amount aforesaid in a year,

but does not include any such person who is employed or engaged mainly in a managerial or administrative capacity;

(*e*) all words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947, (14 of 1947), shall have the meanings respectively assigned to them in that Act.

**3. Power of Central Government to declare certain industries to be notified industries.**—The Central Government may, having regard to the nature of any industry (not being pharmaceutical industry), the number of employees employed in such industry to do any work relating to promotion of sales or business or both, the conditions of service of such employees and such other factors which, in the opinion of the Central Government, are relevant, declare such industry to be a notified industry for the purposes of this Act.

**4. Leave.**—In addition to such holidays, casual leave or other kinds of leave as may be prescribed, every sales promotion employee drawing wages (being wages, not including any commission) shall be granted, if so requested for—

(*a*) earned leave on full wages for not less than one-eleventh of the period spent on duty ;

(*b*) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service.

**5. Issue of appointment letter.**—Every employer in relation to a sales promotion employee shall furnish to such employee a letter of appointment, in such from as may be prescribed,—

(*a*) in a case where he holds appointment as such at the commencement of this Act, within three months of such commencement; and

(*b*) in any other case, on his appointment as such.

**6. Application of certain Acts to sales promotion Employees.**—(1) The provisions of the Workmen's Compensation Act, 1923 (8 of 1923), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, workmen within the meaning of that Act.

(2) The provisions of the Industrial Disputes Act, 1947 (14 of 1947), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, workmen within the meaning of that Act and for the purposes of any proceeding under that Act in relation to an industrial dispute, a sales promotion employee shall be deemed to include a sales promotion employee who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute or whose dismissal, discharge or retrenchment had led to that dispute.

(3) The provisions of the Minimum Wages Act, 1948 (11 of 1948), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

(4) The provisions of the Maternity Benefit Act, 1961 (53 of 1961), as in force for the time being shall apply to, or in relation to, sales promotion employees, being women, as they apply to, or in relation to, women employed, whether directly or through any agency, for wages in any establishment within the meaning of that Act.

(5) The provisions of the Payment of Bouns Act, 1965 (21 of 1965), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

(6) The provisions of the Payment of Gratuity Act, 1972 (39 of 1972), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

7. **Maintenance of registers.**—Every employer in relation to an establishment shall keep and maintain such registers and other documents and in such manner as may be prescribed.

8. **Inspectors.**—(1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits within which they shall exercise their functions.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act have been complied with in respect of an establishment,—

(*a*) require an employer to furnish such information as he may consider necessary;

(*b*) at any reasonable time enter the establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any registers and other documents relating to the employment of sales promotion employees;

(*c*) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been a sales promotion employee in the establishment;

(*d*) make copies of or take extracts from any register or other documents maintained in relation to the establishment under this Act;

(*e*) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

(4) Any person required to produce any register or other document or to give information by an Inspector under sub-section (2) shall be legally bound to do so

9. **Penalty.**—If any employer contravenes the provisions of section 4 or section 5 or section 7 or any rules made under this Act, he shall be punishable with fine which may extend to one thousand rupees.

**10. Offences by companies.**—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this section, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other Officer shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of this section,–

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

**11. Cognizance of offences.**—(1) No court inferior to that of a Metroplitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

(2) No court shall take cognizance of an offence under this Act, unless the complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

12. **Power to make Rules.**—(1) The Central Gover ment may, by notification in the Official Gazette, mal rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the gene ality of the foregoing power, such rules may provide for-

(a) the kinds of leave that may be granted to a sal promotion employee under section 4;

(b) the form of the letter of appointment to b furnished under section 5;

(c) the registers and other documents to be kept an maintained under section 7 and the manner in which suc registers and other documents may be kept and maintained

(d) any other matter which has to be, or may b prescribed.

(3) Every rule made by the Central Governmen under this Act shall be laid, as soon as may be after it i made, before each House of Parliament while it is i session, for a total period of thirty days which may b comprised in one session or in two of more successiv sessions, and if, before the expiry or the session immedi ately following the session or the suceessive session aforesaid, both Houses agree in making any modificatio in the rule or both Houses agree that the rule should no be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 13 LCA 76

*Bangalore, dated the 3rd April 1976.*

Ordered that the Imports and Exports (Control) Amendment Act 1976 (12 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 25th January 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government,*
*Department of Law and Parly. Affair*

## THE IMPORTS AND EXPORTS (CONTROL) AMENDMENT ACT 1976.

Assented to on 25th January 1976.
Act No. 12 of 1976.

The Imports and Exports (Control) Amendment Act, 1976.

AN
ACT

*further to amend the Imports and Exports (Control) Act, 1947.*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

**1. Short title.**—This Act may be called the Imports and Exports (Control) Amendment Act, 1976.

**2 Substitution of new section for section 2.**—For section 2 of the Imports and Exports (Control) Act, 1947 (18 of 1947) (hereinafter referred to as the principal Act), the following section shall be substituted, namely :—

**Definitions.**—'2 In this Act, unless the context otherwise requires,—

(*a*) "adjudicating authority" means the authority specified in, or under, section 4K;

(*b*) "Appellate authority" means the Appellate authority referred to in section 4M;

(*c*) "Chief Controller" means the Chief Controller of Imports and Exports;

(*d*) "control order" means a control order made, or deemed to have been made under this Act;

(*e*) "customs station" has the meaning assigned to to it in the Customs Act, 1962; (52 of 1962)

(*f*) "Deputy Chief Controller" means a Deputy Chief Controller of Imports and Exports;

(*g*) "import" and "export" mean, respectively, bringing into, and taking out of, India by sea, land or air;

(*h*) "letter of authority" means a letter authorising the licensee to permit another person, named in the said letter, to import goods against the licence granted to the licensee;

(*i*) "licence" means a licence granted, and includes a customs clearance permit issued, under any control order;

(j) "prescribed" means prescribed by rules made under this Act;

(*k*) "recognised agency" means an agency to which the functions of distribution of imported goods have been assigned by the Chief Controller.".

3 **Insertion of new sections 4B to 4P.**—After section 4A of the principal Act, the following sections shall be inserted, namely :—

**4B. Power to enter and inspect.**—Any person authorised in writing in this behalf by the Chief Controller or any officer serving under him, not being and officer below the rank of a Deputy Chief Controller (hereafter in this Act called the "authorised person"), may enter, at any reasonable time any premises in which—

(*i*) any imported goods or materials which are liable to confiscation under this Act, or

(*ii*) any books of account or other documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act, more

are suspected to have been kept or concealed, and inspect such imported goods, materials, books of account, other documents or things and may take such notes or extracts from such books of account or other documents as he may think fit.

**4C. Power to search.**—If the authorised person has any reason to believe that—

(*i*) any imported goods or materials which are liable to confiscation under this Act, or

(*ii*) any books of account or other documents or things which, in his opinion, will be useful for, or relevant to, any proceedings under this Act,

are secreted in any place, he may enter into and search such place or premises for such imported goods, materials, books of account, other documents or things.

**4D. Power to seize imported goods or materials.**—(1) If the authorised person has any reason to believe that any imported goods or materials are liable to confiscation under this Act, he may seize such goods or materials together with the package, covering or receptacle, if any, in which such goods or materials are found, and where such goods or materials are found to have been mixed with any other goods or materials, he may seize such goods or materials together with the goods or materials with which they are so mixed :

Provided that where it is not practicable to seize any such goods or materials, the authorised person may serve on the owner of the goods or materials an order that he shall not remove, part with or otherwise deal with, the goods or materials except with the previous permission of such authorised person.

( ) Where any goods or materials are seized under sub-section (1) and no notice in respect thereof is given under section 4L within six months of the seizure of the goods or materials, the goods or materials shall be returned to the person from whose possession they were seized :

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Chief Controller by a further period not exceeding six months.

(3) The authorised person may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of the authorised person.

(5) If any person legally entitled to the documents or other things seized under sub-section (3) objects, for any reason, to the retention by the authorised person of the documents or things, he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the documents or things.

(6) On receipt of an application under sub-section (5), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it may think fit.

(7) Where any document—

(a) is produced or furnished by any person or has been seized from the custody or control of any person under this Act or any other law for the time being in force, or

(b) has been received from any place outside India (duly authenticated by such authority or person and in such manner as may be prescribed) in the course of the investigation of any offence alleged to have been committed by any person against this Act,

and such document is tendered in evidence against the person by whom it is produced or from whom it was seized or against such person and any other person who is jointly tried, or proceeded against, with him, the court, or, as the case may be. the adjudicating authority shall, notwithstanding anything to the contrary contained in any other law for the time being in force,—

(i) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court or the adjudicating authority may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is under that person's handwriting, and, in the case of a document executed or attested, it was executed or attested by the person by whom it purports to have been so executed or attested;

(ii) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

4E. **Power to stop and seize conveyances.**—Any authorised person may, if he has any reason to suspect that any conveyance or animal is being, or is about to be, used for the transportation of any imported goods or materials which are liable to confiscation under this Act and that by such transportation any provision of this Act has been, is being, or is about to be, contravened, at any time stop such conveyance or animal or, in the case of an aircraft, compel it to land, and

(a) rummage and search the conveyance or any part thereof,

(b) examine and search any goods or materials in the conveyance or on the animal,

(c) if it becomes necessary to stop any conveyance or animal, he may use all lawful means for stopping it and where such means fail, the conveyance or animal may be fired upon.

and where he is satisfied that it is necessary so to do to prevent the contravention of any provision of this Act or of any control order or condition of any licence or letter of authority, he may seize such conveyance or animal.

*Explanation*.—Any reference in this section to a conveyance shall, unless the context otherwise requires, be construed as including a reference to an aircraft, vehicle or vessel.

**4F. Search and seizure to be made in accordance with the Code of Criminal Procedure, 1973.**—The provisions of the Code of Criminal Procedure, 1973, (2 of 1974), relating to searches and seizures, shall, so far as may be, apply to every search or seizure made under this Act.

**4G. Confiscation.**—Any imported goods or materials in respect of which –

(a) any condition of the licence or letter of authority, under which they were imported, relating to the utilisation or distribution of such goods or materials, or

(b) any condition relating to the utilisation or distribution of such goods or materials subject to which they were received from, or through, a recognised agency, or

(c) any direction given under a control order with regard to the sale of such goods or materials,

has been, is being, or is attempted to be, contravened shall, together with any package, covering or receptacle in which such goods are found, be liable to confiscation and, where such goods or materials are so mixed with any other goods or materials that they cannot be readily separated, such other goods or materials shall also be liable to confiscation :

Provided that where it is established to the satisfaction of the adjudicating authority that any goods or materials, which are liable to confiscation under this Act, had been or imported for personal use, and not

for any trade or industry, and that they belong to a person other than the person who has, by any act or omission, rendered them liable to confiscation, and such act or omission was without the knowledge or connivance of the person to whom they belong, such goods or materials shall not be ordered to be confiscated ; but such other action as is authorised by this Act may be taken against the person who has, by such act or omission, rendered such goods or materials liable to confiscation.

**4H. Confiscation of conveyance.**—Any conveyance or animal which has been, is being, or is attempted to be, used for the transport of any imported goods or materials which are liable to confiscation under this Act, shall be liable to confiscation unless the owner of the conveyance or animal proves that it was, is being, or is about to be, so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the convyance or animal and that each of them has taken all reasonable precautions against such use :

Provided that in the case of a conveyance or animal used for the transport of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay, in lieu of confiscation of the conveyance or animal, a fine not exceeding the value of the imported goods or materials which have been, are being, or attempted to be, transported by such conveyance.

**4I. Liability to penalty**—(1) Any person who,—

(*a*) in relation to any goods or materials which have been imported under any licence or letter of authority uses or utilises such goods or materials otherwise than in accordance with the conditions of such licence or letter of authority ; or

(*b*) being a person to whom any imported goods or metarials have been delivered by a recognised agency, uses or utilises such goods or meterials or causes them to be

used or utilised, for any purpose other than the purpose for which they were delivered to him ; or

(c) having made a declaration for the purpose of obtaining —

(i) a licence or letter of authority to import any goods or meterials, or

(ii) any amendment of such licence or letter of authority, or

(iii) allotment of any imported goods or meterials, is found to have made in such declaration, any statement which is incorrect or false in meterial particulars, or

(d) acquires, sells or otherwise parts with, or agrees to acquire, sell or otherwise part with, any imported goods or materials in contravention of the conditions of any licence or letter of authority in pursuance of which such goods or meterials had been imported; or

(e) acquires, sells or otherwise parts with, or agrees to acquire, sell or otherwise part with, any imported goods or materials in contravention of the terms of any allotment made by any recognised agency ; or

(f) contravenes any direction given under a control order with regard to the sale of goods or materials which have been imported under any licence or letter of authority or which have been received from, or through, a recognised agency,

shall be liable to a penalty not exceeding five times the value of the goods or materials, or one thousand rupees, whichever is more, whether or not such goods or materials have been confiscated or are available for confiscation.

*Explanation.*—For the purposes of this section, "value" has the meaning assigned to it in sub-section (1) of section 14 of the Customs Act, 1962 (52 of 1962).

(2) If any person abets the commission of any act or omission, which act or omission would render any person liable to a penalty under sub-section (1), or attempts to commit any act aforesaid, the person so

abetting or attempting shall be liable to a penalty not exceeding five times the value of the goods or materials in respect of which such abetment or attempt has been made or one thousand rupees, whichever is more, whether or not such goods have been confiscated or are available for confiscation.

(3) A penalty imposed under sub-section (1) or sub-section (2) may, if it is not paid, be recovered as an arrear of land revenue:

Provided that the adjudicating authority may, by order, attach any money belonging to, or owed to, the person on whom any penalty has been imposed under sub-section (1) or sub-section (2), and such attachment shall be made in the same manner in which an attachment is made by a civil court.

**4J Confiscation or penalty not to interfere with other punishments**—No confiscation made or penalty imposed under this Act shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

**4K Adjudication.**—Any confiscation may be adjudged or penalty may be imposed under this Act,—

(a) by the Chief Controller, or, where he so directs, by a general or special order, by the Additional Chief Controller ;

(b) subject to such limit as may be specified in this behalf, by such other officer not below the rank of a Deputy Chief Controller, as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

**4L. Giving of opportunity to the owner of goods, etc.** No order of adjudication of confiscation or imposing a penalty shall be made unless the owner of the goods, materials, conveyance or animal, or other person concerned, is given a notice in writing.

(i) informing him of the grounds on which it i proposed to confiscate such goods, materials, conveyanc or animal or to impose a penalty ;

(ii) giving him a reasonable opportunity of makin a representation in writing within such reasonable tim as may be specified in the notice against the confiscation or imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

4M. Appeal.—(1) Any person aggrieved by any decision or order made under this Act may prefer an appeal,—

(a) where the decision or order has been made by the Chief Controller or Additional Chief Controller to the Central Government ;

(b) where the decision or order has been made by any officer below the rank of the Additional Chief Controller, to the Chief Controller or where he so directs, to the Additional Chief Controller.

within a period of forty-five days from the date on which the order is served on such person:

Provided that the Appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period of forty-five days, allow such appeal to be preferred within a further period of forty-five days:

Provided further that in the case of an appeal against an order imposing a penalty, no such appeal shall be entertained unless the amount of the penalty has been deposited by the appellant :

Provided also that, where the Appellate authority is of opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

(2) The Appellate authority may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after making such further inquiries, if any, as it may consider necessary, pass such orders as it thinks fit, confirming, modifying or reversing the decision or order appealed against, or may send back the case, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary :

Provided that an order enhancing or imposing a penalty or confiscating goods or materials of a greater value shall not be made under this section unless the appellant has had an opportunity of making a representation, and, if he so desires, of being heard in his defence.

**4N. Powers of revision of the Chief Controller.**—The Chief Controller may, on his own motion or otherwise, call for and examine the records of any proceeding in which an order of adjudication of confiscation or imposing any penalty has been made by any officer subordinate to him and against which no appeal has been preferred, for the purpose of satisfying himself as to the correctness, legality or propriety of such order or decision and pass such orders thereon as he may think fit :

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(a) has, within a period of two years from the date of such decision or order received a notice to show cause why such decision or order shall not be varied, and

(b) has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence.

**4O. Power of adjudicating and other authorities.**—(1) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act, shall have all the powers of a civil court under the

Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) Summoning and enforcing the attendance of witnesses ;

(b) requiring the discovery and production of any document ;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(2) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order.

**4P. Continuance of proceedings in the event of death or insolvency.**—(1) Where a penalty has been imposed by the adjudicating authority and—

(a) no appeal against the order imposing such penalty has been preferred to the Appellate authority and the person entitled to file such appeal dies or is adjudicated an insolvent before the expiry of the period within which the appeal can be preferred, or

(b) an appeal has been preferred to the Appellate authority against the order imposing such penalty but the appellant dies or is adjudicated an insolvent during the pendency of the appeal,

then, it shall be lawful, for the legal representatives of such person or the Official Assignee or the Official Receiver, as the case may be, to prefer an appeal to the Appellate authority, or, as the case may be, to continue the appeal before the Appellate Authority, in place of such person and the provisions of section 4M shall, so far as may be, apply or continue to apply to such appeal.

(2) The powers of the Official Assignee or the Official Receiver under sub-section (1) shall be exercised by him subject to the provisions of the Presidency Towns Insolvancy Act, 1909 (3 of 1909), or the Provincial Insolveny Act, 1920, (5 of 1920) as the case may be;.

**4. Amendment of section 5.**—In section 5 of the principal Act,—

(i) after the words "any condition of a licence granted under any such order", the words "or any authority under which imported goods were received from or through a recognised agency" shall be inserted ;

(*ii*) for the words "be punishable with imprisonment for a term which may extend to two years and also with fine", the words—

"be punishable,—

(*a*) where the value of the goods, in relation to which such contravention or attempted contra-vention or abetment of contravention has been made, exceeds ten lakh rupees, with imprisonment for a term which may extend to sevenyears and also with fine, and

(*b*) in any other case, with imprisonment for a term which may extend to three years and also with fine :"

shall be substituted.

**5. Insertion of new sections 5A and 5B.**—After section 5 of the principal Act, the following sections shall be inserted, namely :—

**'5A. Penalty for contravention of order made by dajudicating authority and Appellate authority.**—If any

person fails to pay the penalty imposed by the adjudicating or the Appellate authority or fails to comply with any direction or order made, or deemed to have been made, under this Act, he shall, upon conviction by a court, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

**5B. Correction of clerical or arithmetical mistakes.**—Clerical or arithmetical mistakes in any decision or order, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the authority by which the decision or order was made either on its own motion or on the application of the aggrieved person :

Provided that where any correction proposed to be made under this section will have the effect of prejudicially affecting any person, no such correction shall be made except after giving to that person a reasonable oportunity of making a representation in the matter and no such correction shall be made after the expiry of a period of two years from the date on which such decision or order was made."

**6. Insertion of new Section 8.**—After section 7 of the principal Act, the following section shall be inserted, namely :—

"**8. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the person by whom, and the manner in which, any document received from a place outside India shall be authenticated,

(b) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Centrl Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

**7. Repeal and saving.**— (1) The Imports and Exports (Control) Amendment Ordinance, 1975 (19 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act, as if this Act had come into force on the 4th day of November 1975.

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 3 LCR. 1976

*Bangalore, dated 12th February 1976.*

Order that the G.S.R.No 1(E)the Tobaco Board Rules 1976 published in Part II, Section 3 of the GAZETTE OF INDIA Extraordinary, dated 1st January 1976 be republished in the *Karnataka Gazette* for general information.

**By Order and in the name of the Governor of Karnataka**

B. NAGESHA RAO,

*Under Secretary to Government,*
*Dept. of Law and Parly. Affairs.*

GOVERNMENT OF INDIA
(Bharat Sarkar)

**MINISTRY OF COMMERCE**
**(Tobaco Industry Development Control)**

*New Delhi, dated the 1st January 1976.*

NOTIFICATION

G.S.R. 1(E).—In exercise of the powers conferred by Section 33 of the Tobacco Board Act, 1975 (4 of 1975), the Central Government hereby makes the following rules, namely :—

CHAPTER I

PRELIMINARY

1. **Short title. and Commencement.**—(1) These rules may be called the Tobacco Board Rules, 1976.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

(a) "Act" means the Tobaco Board Act, 1975 (4 of 1975);

(b) "Board" means the Tobacco Board established under section 4;

(c) the terms "Chairman" "curing", "dealer", "Executive Director", "export", "member", "registered and registered grower" shall have the meanings respectively assigned to them in the Act;

(d) "Committee" means any of the Committees appointed by the Board appointed under Section 7 :

(e) "Secretary means the Secretary of the Board appointed under Section 6 ;

(f) "Section" means a section of the Act ;

(g) "Form" means a Form appended to the rule

(h) "Vice-Chairman" means the Vice-Chairman of the Board;

(i) "Year" means the year commencing on the first day of April.

## CHAPTER II

## THE BOARD AND ITS COMMITTEES

3. **Manner of filling vacancies among members.**—(1) The Central Government may make such consultations as it thinks fit before appointing members to be appointed under the provisions contained in clauses (c), (d) and (e) of sub-section (4) of section 4.

(2) When a member of the Board dies or resigns or is deemed to have resigned or is removed from office or becomes incapable of acting, the Central Government may by notification in the official Gazette appoint a person to fill that vacancy:

Provided that where the vacancy is one which was held by the outgoing member by virtue of his membership of Parliament under clause (b) of sub-section (4) of section 4, the appointment of the next incumbent of that vacancy shall be on the basis of fresh election by that House of Parliament to which the outgoing member belonged.

4. **Term of Office of members.**—(1) A member appointed under clauses (a), (b), (c) and (e) of sub-section (4) of section 4 shall hold office for a period of three years from the date of his appointment and a member appointed under clause (d) shall hold office for a period of two years from the date of his appointment:

Provided that a member shall be eligible for reappointment:

Provided further that such member shall cease to be a member if he ceases—

(i) to be a member of the House of Parliament by which he was elected; or

(ii) to represent the category from which he was appointed.

(2) A person appointed to fill a casual vacancy under sub-rule (2) of rule 3 shall hold Office so long as the member whose place he fills would have been entitled to hold Office, if the vacancy had not occurred.

5. **Resignation.**(1) A member may resign his Office by writing under his hand addressed to the Chairman.

(2) The Office of a member shall fall vacant from the date on which his resignation is accepted or on the expiry of thirty days from the date of receipt of intimation of resignation, which ever is earlier.

(3) The power to accept the resignation of a member shall vest in the Chairman, who on accepting the resignation, shall report that fact to the Board at its next meeting.

6. **Removal from the Board.**—The Central Government may remove any member from Office—

(a) if he is of unsound mind and stands so declared by a competent court ; or

(b) if he is an undischarged insolvent ; or

(c) if he is convicted of an offence involving moral turpitude ; or

(d) if without the leave of the Chairman, he fails to attend three consecutive meetings of the Board.

7. **Absence from India.**—(1) Before a member of the Board goes out of India—

(a) he shall intimate the Secretary the date of his departure from and the date of his expected return to India ; and

(b) if he intends to be absent from India for a longer period than six months, he shall tender his resignation.

(2) If a member leaves India without observing the provisions of sub-rule (1) he shall be deemed to have resigned with effect from the date of his departure from India.

8. **Membership Roll.**—The Secretary shall keep a record of the names of members and their addresses.

9. **Change of Address.**—A member shall keep the Secretary informed of any change in his address and if he fails to inform the change of address, the address in the official records shall for all purposes be deemed to be his correct address.

10. **Vice Chairman.**—(1) The Board shall elect, in each year, from amongst its members, a Vice-Chairman for a period of twelve months commencing from the date of his election, or if the election is held before the expiry of the term of office of an existing Vice-Chairman, from the date on which such Vice-Chairman would vacate office.

(2) If a casul vacancy occurs in the office of the Vice-Chairman on account of resignation or his ceasing to be a member or otherwise, the Board shall at its next meeting, elect another member to be the Vice-Chairman who shall hold office for the un-expired portion of the term of office of the Vice-Chairman elected under sub-rule (1).

11. **Committees of the Board.**—(1) The Committees appointed by the Board under section 7, may be of either advisory or executive character and shall exercise such powers and discharge such functions of the Board as may be decided by the Board in conformity with the provisions contained in the Act, and these rules and also the directions, if any, that may be given to the Board by the Central Government.

(2) All important decisions taken by the Committees shall be placed before the Board at its next meeting for its information and for such review as it may consider necessary.

## CHAPTER III

## PROCEDURE FOR MEETINGS OF THE BOARD

**12. Meetings of the Board.**—There shall be not less than two ordinary meetings of the Board in a year on such dates and at such places as the Chairman may think fit and the interval between any two ordinay meetings shall not, in any case, be longer than eight months.

**13. Power to Call Meetings.**—(1) The Chairman may, at any time, call a meeting of the Board and may do so if a requisition for a meeting is presented to him in writing by at least seven members.

2 The Chairman may require any officer of the Board, besides the Executive Director, or invite any person to attend any meeting of the Board, but such officer or person shall not be entitled to vote.

(3) At least fourteen clear days before any meeting of the Board, notice of the time and place of the intended meeting signed by the Secretary shall be send to the Central Government and left at or posted to the address of every member;

Provided that in case of urgency, a special meeting of the Board may be summoned at any time by the Chairman, who shall inform in advance, the Central Government and the members of the subject matter for discussion and the reasons for which he considers the matter urgent,

(4) Notwithstanding anything contained in this rule, the Central Government may, at any time, call a meeting of the Board.

**14. Quorum.**—(1) No business shall be transacted at a meeting of the Board unless there are present at such meeting at least seven members.

(2) If at any time the number of members present at a meeting is less than the number of members specified in sub-rule (1), the member presiding shall adjourn the meeting to a date not later than three days from the date of such meeting after informing the members of the date, time and place of the adjourned meeting and it shall thereupon be lawful for the member presiding at such adjourned meeting to dispose of the business intended to be transacted at the original meeting, irrespective of the number of members present.

**15. Chairman of meetings.**—The Chairman shall preside over every meeting of the Board and in his absence the Vice-Chairman

shall preside. If both the Chairman and the Vice-Chairman are absent the members present at the meeting shall elect one from amongst themselves to preside over such meeting.

16 **Agenda** —(1) The Chairman shall cause to be prepared and circulated to the Central Government and among the members, at least ten days before a meeting of the Board, a list of business to be transacted at such meeting

(2) No business not included in the agenda, shall be transacted at a meeting of the Board without the permission of the Chairman.

17. **Voting.**—(1) Every question brought before a meeting of the Board shall be decided by a majority of the members present and voting.

(2) In the case of an equality of votes, the Chairman, the Vice-Chairman or the member presiding over such meeting shall have a second or casting vote.

18. **Transaction of business by circulation.**—(1) Any business which is to be transacted by the board may, if the Chairman so direct be referred to members (other than members who are not in India) by circulation of papers, and copies of papers so circulated shall also be sent to the Central Government.

(2) Any proposal or resolution circulated under sub-rule (1) and approved by the majority of the members who have recorded their views in writing shall be as effectual and binding as if such proposal or resolution was decided by the majority of the members at a meeting of the Board.

Provided that atleast six members of the Board have recorded their views on the proposal or resolution ;

Provided further that when a proposal or resolution is referred to the members by circulation, any five members may require that the proposal or resolution be referred to members at a meeting, and thereupon such referrence shall be made to members at a meeting of the Board.

(3) Where any business is referred to members under sub-rule (1), a period of not less than ten clear days shall be allowed for the receipt of replies from members and such period shall be reckoned from the date on which the notice of business is issued.

(4) If a proposal or resolution is circulated under this rule the result of the circulation shall be communicated to all the members and to the Central Government.

(5) All decision on questions arrived at by circulation of papers shall be placed at the next meeting of the Board for record.

19. **Record of Business.**—A record of items of business transacted by the Board shall be maintained by the Secretary and copies of such record shall be forwarded to the central Government.

(2) The record of business transacted at every meeting of the Board shall be signed by the Chairman, the Vice Chairman or, as the case may be, the member presiding at such meeting.

(3) When any business is transacted by circulation of papers, a record of the business so transacted shall be signed by the Chairman.

20. **Review** —(1) The Central Government may, for reasons to be recorded in writing, review any decision of the Board and pass such order in the matter as it thinks fit.

(2) A copy of every order passed under sub-rule (1) shall be sent to the Board by the Central Government.

(3) On receipt of a copy of the order under sub-rule (2), the Board may make a representation to the Central Government against the said order and the Central Government may, after considering such representation, either cancel, modify or confirm the order passed by it under sub-rule (1), or take such other action as may in its opinion be just or expedient.

## CHAPTER IV

## FINANCE, BUDGET AND ACCOUNTS OF THE BOARD

21. **Budget Estimates.**—(1) The Board shall in each year prepare budget estimates for the ensuing year and revised estimates for the current year and shall submit them for the sanction of the Central Government on or before such dates as may be fixed by the Government. The revised budget when sanctioned shall supersede the original budget and shall be deemed to be the sanctioned budget for the year.

(2) No expenditure shall be incurred until the budget is sanctioned by the Central Government and the expenditure has received the sanction of the competent authorities.

(3) The budget shall be prepared in accordance with such instructions as may be issued from time to time and be in such form as the Central Government may direct. It shall include a statement of—

(i) The estimated opening balance;

(ii) the estimated receipts under the different heads referred to in sub-section (1) of of Section 17;

(iii) the estimated expenditure classified under the following heads and sub-heads or such other heads and sub-heads or the Central Government may from time to time direct:—

Heads :

(a) Administration;

(b) Development of Tobacco Production and Curing;

(c) Internal marketing facilities including Grading;

(d) Research;

(e) Price Support Operations;

(f) Market Survey;
(g) Trade delegations;
(h) Exhibitions and fairs;
(i) Statistics;
(j) Works;
(k) Propaganda and publicity;
(l) Others;

**Sub-heads :**

(i) pay of Officers;

(ii) Pay of establishment;

(iii) Allowances, honoraria and the like; and

(iv) Other charges, contingencies and the like.

(4) Supplementary estimates of expenditure, if any, shall be submitted for the sanction of the Central Government in such from and on such dates as may be directed by it in this behalf.

22. **Accounts of the Board.**—(1) The Board shall maintain accounts of all receipts and expenditure relating to each year.

(2) The expenditure incurred in a particular year shall be shown under separate heads and sub-heads.

(3) The opening balance, if any, shall be stated as such separately

(4) The closing balance of the year shall be shown at the foot of the accounts on the expenditure side.

(5) An annual *proforma* account on accrual basis shall also be prepared for bringing out assets and liabilities as well as the details of reserves and investments.

23. **Deposit of funds of Board in banks and investment of such funds.**—(1) Money required for the current expenditure of the Board with the exception of the petty cash and surplus moneys shall be kept in the Personal Ledger Account in the District Treasury or Sub-treasury or in current account with the State Bank of India or any of its subsidiaries.

(2) Any funds not required for current expenditure may be placed in deposit account with the Central Government in the Public Account:

Provided that the funds in the Boards pension fund or provident fund, not required for current expenditure, may be invested in Trustee Securities or Ten-Years Treasury Savings Deposit Certificate or National Defence Certificates to the extent permissible or in fixed deposit with the State Bank of India or any of its subsidaries or, if approved by the Central Government, with any other scheduled bank.

(3) Payment by or on behalf of the Board shall be made in cash or by cheque drawn against the current account of the Board.

## CHAPTER V

## POWERS OF THE BOARD, THE CHAIRMAN THE EXECUTIVE DIRECTOR AND THE SECRETARY

24. **Power to incur expenditure and to write off Losses.**—Subject to the provisions of the Act, these rules and the rules made by the Central Government relating to revenue and expenditure for the time being in force, the Board may incur such expenditure as it may think fit or items provided for, and within the amounts sanctioned by the Central Government, in the budget.

(2) The Board may write off losses or waive recoveries upto ten thousand rupees in any single case.

(3) Re-appropriations between sub-heads under heads of expenditure may be made by the Board.

(4) The Board shall not incur expenditure outside India in excess of fifteen thousand rupees on any single item without the previous sanction of the Central Government.

25. **Borrowing powers.**—The Board may, with the previous sanction of the Central Government borrow, on the security of the Tobacco Fund or any of its other assets, for meeting its expenses or for carrying out the measures referred to in section 8.

26. **Contracts.**—(1) The Board may enter into any contracts for the discharge of its functions under the Act:

Provided that—

(a) every contract other than a contract for, or the account purchase or sale of, virginia tobacco under the provisions of rule 32, which extends over a period of more than three years or involves an expenditure in excess of rupees one lakh; and

(b) every agreement or contract for technical collaboration or consultation services with firms or foreign Governments shall require the previous sanction of the Central Government.

(2) Contrats shall not be binding on the Board unless they are executed by the Chairman or any officer authorised by the Board with the previous approval of the appropriate authority concerned.

(3) Neither the Chairman nor any officer of the Board not any member thereof shall be personally liable under any assurances of contracts made by the Board and any liability arising under such assurances or contracts shall be discharged from the moneys at the disposal of the Board.

27. **Financial transactions in general**—Except as otherwise provided in these rules, the provisions of the Central Treasury Rules the Delegation of Financial Power Rules, 1958, and the General Financial Rules, 1962 of the Central Government, for the time being in force, shall, subject to such modifications or adaptations as may

be made by the Board therein with the previous approval of the Central Government, apply to all financial transactions of the Board.

28. **Powers and duties of Chairman.**—(1) The Chairman shall be responsible for the proper functioning of the Board and for the discharge of its functions under the Act and these rules.

(2) The Chairman shall have the following powers, namely.—

(i) to grant leave to officers and employees of the Board including the Executive Director and the Secretary;

(ii) to exercise administrative control over all departments and officers of the Board including the Executive Director and the Secretary;

(iii) to call for documents and records and to inspect or cause to be inspected any land or premises including places of business or of sorting, curing, processing, grading, manufacture, packing, storage or auction, as required under the Act or these rules or as may be considered necessary for discharging properly any of the functions of the Board;

(iv) to sanction expenditure for contingencies, supplies and services and purchase of article required for the working of the office of the Board, and

(v) to carry out the measures referred to in Section 8.

(3) The Chairman shall have power to require the Board or any Committee thereof to defer taking action in pursuance of any decision taken by the Board or the Committee, as the case may be, pending a reference to the Central Government on such decision.

(4) Where a matter has to be disposed of by the Board or the Committee and a decision in respect of that matter cannot wait till a meeting of the Board or the Committee, as the case may be, is held or till the circulation of the resolution relating to that matter among the members of the Board or Committee, as the case may be, the Chairman may take the decision himself.

(5) Where the Chairman takes a decision under sub-rule (4), he shall submit the same for ratification to the Board or the Committee, as the case may be, at its next meeting;

Provided that where the Board or the Committee modifies or cancels the action taken by the Chairman, such modification or cancellation shall be without prejudice to the validity of any action taken before such modification or cancellation.

29. **Powers and duties of Executive Director.**— (1) The Executive Director shall be responsible, subject to the overall responsibility of the Chairman, for implementing the Board's policies in regard to regulation of production and internal marketing of

of virginia tobacco, ensuring a fair and remunerative price to the growers, purchasing of virginia tobacco from the growers when considered necessary by the Board. the disposal of the tobacco so purchased promoting the garding of virginia tobacco at the level of growers, sponsoring, assisting, co-ordinating or encouraging scientific, technological and economic research for the promotion of the tobacco industry. It shall also be his responsibality to ensure that in carrying out these functions, the Board works in close liaison with Union agencies, institutions and authorities such as the Directorate of Tobacco Development, the Directorate of Marketing and Inspection, the Indian Council of Agricultural Research etc., which may be concerned with these aspect of the tabacco industry, and avoids duplication of effort.

(2) Besides carrying out, such other functions as may be assigned to him by the Chairman or such directions as the chairman may give to him in regard to the perfore mance of the functions stated in sub-rule (1) the Executive Director shall present to the Board such periodical reports in respect of the work under his charge, as may be specified by the Chairman.

30. **Powers and duties of Secretary.**—(1) The Secretary shall be responsible for the implementation of the decisions arrived at by the Board or by its Committees and the dischare of the duties imposed on him under the Act or by these rules.

(2) Subject to such powers and duties as may be delegated by the Chairman, the Secretary shall—

(a) cause all important papers and matters presented to the Board as early as practicable ;

(b) issue directions as to the method of carrying out the decisions of the Board ;

(c) grant receipts on behalf of the Board for all moneys received under the Act ;

(d) maintain or cause to be maintained an account of the receipts and expenditure of the Board and also the various registers that may be prescribed for the Board under the Act or these rules ;

(e) receive applications from growers. curers. exporters. packers, auctioneers, dealers, owners/lessers of auction platforms for registration with the Board under section 10 to 13 examine them in accordance with the policy of Board the provisions of the Act and these rules and issuing necessary certificate of registration or otherwise communicating the decision on such applications to the, applicants;

(f) receive appeals written or oral, against the decisions of the Board and taking appropriate action thereon in accordance with the provisions contained in the Act this-

rules and the guidelines that may be laid down by the Board or the Chairman ;

(g) present an annual draft report on the working of the Board to the Board for approval and submit the report in the form approved by the Board to the Central Government not later than the dates specified from time to time in this behalf by the Central Government for being laid before each House of Parliament ;

(h) assist the Chairman in all administrative matters and in the discharge of such other functions as the Chairman may desire.

CHAPTER VI

## MINIMUM EXPORT PRICES AND PURCHASE, SALE AND EXPORT OF VIRGINIA TOBACCO

31. **Minimum Export Prices.**—(1) By 31st December every year, the Board shall recommend for the consideration of the Central Government the minimum prices which in its view should be fixed for the next year for the export of virginia tobacco as well as for such other varieties of tobacco which have an export prospect.

(2) In recommending the said minimum export prices, besides such other matters as may be considered relevant, the Board shall take into consideration the following matters, namely :—

(i) surplus available from the previous crops and the size of the new crop;

(ii) total assessed demand for home consumption and for exports ,

(iii) average FOB unit value realisaton, qualitywise during the last twelve months and the trend of prices during the last three months ;

(vi) Change in the cost of cultivation ;

(v) desirability of ensuring a fair and remunerative return to the growers consistent with the need to make the minimum export prices attractive enough to take care of the entire exportable surplus.

(3) The recommendations of the Board shall be accompanied by a detailed analysis of the data taken into consideration in arriving at those recommendations indicating also the manner in which the said recommended prices have been worked out.

(4) If and when, in the opinion of the Board as a situation develops warranting the revision of the said minimum export prices during the course of the year, or when so desired by the Central Government the Board shall make special recommendation to the Government for its consideration, over and above the annual recommendation referred to in sub-rule (1).

32. **Purchase of Virginia Tobacco.**—(1) The Board may, and if so, directed by the Central Government shall, purchase virginia tobacco from the growers of such tobacco in India when the Board or as the case may be, the Central Government is satisfied that such a step is necessary or expedient to protect the interests of the growers.

(2) The Tobacco so purchased by the Board shall be disposed of by it in India or abroad as and when considered appropriate and in such manner as the Board may think fit or as may be directed by the Central Government.

(3) The Board shall make maximum possible utilisation of the agency of the State Trading Corporation of India Ltd., in exporting the virginia tobacco purchased by the Board.

(4) The Board shall keep the Central Government fully informed of the tobacco purchase operations that may be undertaken by it and shall comply with such instructions, guidelines or restrictions etc. that may be issued or imposed by the Central Government in regard to such purchases and also the sales, including exports, to be made out of the stocks so purchased by the Board.

(5) The prices at which virginia tobacco shall be purchased or sold by the Board shall be such as considered appropriate by it subject to such guidelines, if any, which the Central Government may lay down specifically for the purpose from time to time through direction to the Board.

[No. F. 18 (9)/75-EP (Agri. I.)]

V. C. PANDE. Jt. Secy.

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 14 LCA 1976.

*Bangalore, dated 5th April 1976.*

Ordered that the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (Act No. 13 of 1976) published in Part II Section 1 of the *Gazette of India*, Extraodinary dated 25th January 1976 be republished in the *Karnataka Gazette*, for general information.

**By Order and in the name of the Governor of Karnataka**

B. NAGESHA RAO,

***Under Secretary to Government,***

4 *Department of Law and Parly. Affairs.*

GOVERNMENT OF INDIA

# THE SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS (FORFEITURE OF PROPERTY) ACT, 1976

## ACT No. 13 of 1976

*Assented to on 25th Jannary, 1976*

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title, extent and commencement
2. Application
3. Definitions
4. Prohibition of holding illegally acquired property.
5. Competent authority
6. Notice of forfeiture.
7. Forfeiture of property in certain cases.
8. Burden of proof.
9. Fine in lieu of forfeiture.
10. Procedure in relation to certain trust ...

11. Certain transfers to be null and void.
12. Constitution of Appellate Tribunal.
13. Notice or order not to be invalid for error in description
14. Bar of jurisdiction.
15. Competent authority and Appellate Tribunal to have powers of civil court.
16. Information to competent authority.
17. Certain officers to assist competent authority and Appellate Tribunal.
18. Power of competent authority to require certain officers to exercise certain powers.
19. Power to take possession.
20. Rectification of mistakes.
21. Findings under other laws not conclusive for proceedings under this Act.
22. Service of notices and orders.
23. Protection of action taken in good faith.
24. Act to have overriding effect.
25. Provisions of the Act not to apply to certain properties held in trust
26. Power to make rules.
27. Repeal and saving.

## THE SMUGGLERS AND FOREIGN EXHCANGE MANIPULATORS (FORFEITURE OF PROPERTY) ACT, 1976

AN

## ACT

*to provide for the forfeiture of illegally acquired properties of of smugglers and foreign exchange manipulators and for matters connected therewith or incidental thereto.*

WHEREAS for the effective prevention of smuggling activities and foreign exchange manipulations which are having a deleterious effect on the national economy it is necessary to deprive persons engaged in such activities and manipulations of their ill-gotten gains;

AND WHEREAS such persons have been augmenting such gains by violation of wealth-tax, income-tax or other laws or by other means and have thereby been increasing their resources for operating in a clandestine manner;

AND WHEREAS such persons have in many cases been holding the properties acquired by them through such gains in the names of their relatives, associates and confidants;

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1. (1) **Short title, extent and commencement.**—This Act may be called the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976

(2) It extends to the whole of India except the State of Jammu and Kashmir

(3) It shall be deemed to have come into force on the 5th day of November, 1975.

2. **Application**—(1) The provisions of this Act shall apply only tothe persons specified in sub-section (2).

(2) The persons referred to in sub-section (1) are the following, namely: :—

(a) every person—

(i) who has beed convicted under the Sea Customs Act, 1878 (8 of 1878) or the Customs Act, 1962, (52 of 1962) of an offence in relation to goods of a value exceeding one lakh of rupees ; or

(ii) who has been convicted under the Foreign Exchange Regulatioct Act, 1947, (7 of 1947) or the Foreign Exchange Regulation Act, 1973, (46 of 1973,) of an effence, the amount or value involved in which exceeds one lakh of rupees ; or

(iii) who having been convicted under the Sea Customs Act, 1878, (8 of 1878) or the Customs Act, 1962, (52 of 1962) has been convicted subsequently under either of those Acts ; or

(iv) who having been convicted under the Foreign Exchange Regulation Act, 1947, (7 of 1947) or the Foreign Exchange Regulation Act, 1973. (46 of 1973) has been convicted subsequently under either of those Acts.

(b) every person in respect of whom an order of detention has been made under the Conservation of Foreign Exchane and Prevention of Smuggling Activities Act, 1974 (52 of 1974)

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board or before making a reference to the Advisory Board ; or

(ii) such order detention, being an order to which the provision of section 9 of the said Act apply, has not been revoked before the expiry of the time for or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act ; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of that Act ; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction ;

(c) every person who is a relative of a person referred to in clause (a) or clause (b) ;

(d) every associate of a person refer red to in clause (a) or clause (b) ;

(e) any holder (hereafter in this clause referred to as the present holder) of any property which was at any time previously held by a person referred to in clause (a) or clause (b) unless the present holder or, as the case may be, any one who held such property after such person and before the present holder, is or was a transferee in good faith for adequate consideration.

*Explanation 1.*—For the purposes of sub-clause (i) of clause (a), thevalue of any goods in relation to which a person

has been convicted of an offence shall be the wholesale price of the goods in the ordinary course of trade in India as on the date of the commission of the offence.

*Explanation 2* —For the purposes of clause (c) "relative" in relation to a person, means—

(i) spouse of the person ;
(ii) brother or sister of the person ;
(iii) brother or sister of the spouse of the person;
(iv) any lineal ascendant or descendant of the person ;
(v) any lineal ascendant or descendant of the spouse of the person ;
(vi) spouse of a person referred to in clause (ii), clause (iii), clause (iv) or clause (v) ;
(vii) any lineal descendant of a person referred to in clause (ii) or clause (iii)

*Explanation 3* —For the purposes of clause (d), "associate", in relation to a person, means—

(i) any individual who had been or is residing in the residential premises (including outhouses) of such person ;

(ii) any individual who had been or is managing the affairs or keeping the accounts of such person ;

(iii) any association of persons, body of individuals, partnership firm, or private company within the meaning of the Companies Act, 1956 (1 of 1956) of which such person had been or is a member, partner or director ;

(iv) any individual who had been or is a member, partner or director of an association of persons, body of individuals, partnership firm or private company referred to in clause (iii) at any time when such person had been or is a member, partner or director of such association, body partnership firm or private company ;

(v) any person who had been or is managing the affairs, keeping the accounts, of any association of persons, body of individuals, partnership firm or private company referred to in clause (iii) ;

(vi) the trustee of any trust, where—

(a) the trust has been created by such person; or

(b) the value of the assets contributed by such person (including the value of the assets, If any, contributied by him earlier) to the trust amounts, on the date on which the contribution is made, to not less than twenty per cent of the value of the assets of the trust on that date ;

(vii) where the competent authority, for reasons to be recorded in writing, considers that any properties of such person are held on his behalf by any other person, such other person.

*Explanation 4.*—For the avoidance of doubt, it is hereby provided that the question whether any person is a person to whom the provisions of this Act apply may be determined with referance to any facts, circnmstances or events (including any conviction or detention) which occurred or took place before the commencement of this Act.

3. (1) **Definitions**—.In this Act, unless the context otherwise requires—

(a) "Appellate Tribunal" means the Appellate Tribunal for Forfeited Property constituted under secton 12

(b) "competent authority" means an officer of the Central Government authorised by it under sub-section (1) of section 5 to perform the functions of a competent authority under this Act ;

(c) "illegally acquired property", in relation to any; person to whom this Act applies. means—

(i) any property acquired by such person, whether before or after the commencement of this Act, wholly or partly out of or by means of any income, earnings or assets derived or obtained from or attributable to any activity prohibited by or under any law for the time being in force relating to any matter in respect of which Parliament has power to make laws ; or

(ii) any property acquired by such person, whether before or after the commencement of this Act, wholly or

partly out of or by means of any income, earnings or assets in respect of which any such law has been contravened; or

(iii) any property acquired by such person, whether before or after the commencement of this Act, wholly or partly out of or by means of any income, earnings or assets the source of which cannot be proved and which cannot be shown to be attributable to any act or thing done in respect of any matter in relation to which Parliament has no power to make laws ; or

(iv) any property acquired by such person, whether before or after the commencement of this Act, for a consideration, or by any means, wholly or partly traceable to any property referred to in sub-clauses (i) to (iii) or the income or earnings from such property ;

and includes—

(A) any property held by such person which would have been, in relation to any previous holder thereof illegally acquired property under this clause if such previous holder had not ceased to hold it, unless such person or any other person who held the property at any time after such previous holder or, where there are two or more such previous holders, the last of such previous holders is or was a transferee in good faith for adequate consideration ;

(B) any property acquired by such person, whether before or after the commencement of this Act, for a consideration or by any means, wholly or partly traceable to any property falling under item (A), or the income or earnings therefrom ;

(*d*) " prescribed " means prescribed by rules made under this Act ;

(*e*) " property " includes any interest in property, movable or immovable :

(f) " trust " includes any other legal obligation.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any in force in that area.

(3) Any reference in this Act to any officer or auth ority shall, in relation to any area in which there is n officer or authority with the same designation, be cons trued as a reference to such officer or authority as may b specified by the Central Government by notification in th Official Gazette.

**4. Prohibition of holding illegally acqvired property** (1) As from the commencement of this Act, it shall not b lawful for any person to whom this Act applies to hold an illegally acquired property either by himself or throug any other person on his behalf.

(2) Where any person holds any illegally acquire property in contravention of the provisions of sub-sectio (1), such property shall be liable to be forfeited to th Central Government in accordance with the provisions o this Act.

**5. Competent authority.**—(1) The Central Govern ment may, by order published in the Official Gazette authorise as many officers of the Central Government (no below the rank of a Joint Secretary to the Government) as it thinks fit, to perform the functions of the competen authority under this Act.

(2) The competent authorities shall perform thei functions in respect of such persons or classes of persons a the Central Government may, by order, direct.

**6. Notice of forfeiture** —(1) If, having regard t the value of the properties held by any perso n to whor this Act applies either by himself or through any othe person on his behalf, his known sources of income, earning or assets, and any other information or meterial availabl to it as a result of action taken under section 18 or othe wise the competent authority has reason to believe (th reasons for such belief to be recorded in writing) that a or any of such properties are illegally acquired propertie it may serve a notice upon such person (hereinafte referred to as the person affected) calling upon him withi such time as may be specified in the notice, which sha

not be ordinarily less than thirty days, to indicate the sources of his income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be illegally acquired properties and forfeited to the Central Government under this Act.

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

**7. Forfeiture of property in certain cases.**—(1) The competent authority may, after considering the explanation, if any, to the show-cause notice issued under section 6, and the materials available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are illegally acquired properties.

(2) Where the competent authority is satisfied that some of the properties referred to in the show-cause notice are illegally acquired properties but is not able to identify specifically such properties, then, it shall be lawful for the competent authority to specify the properties which, to the best of its judgment, are illegally acquired properties and record a finding according under sub-section (1).

(3) Where the competent authority records a finding under this section to the effect that any property is illegally acquired property, it shall declare that such property shall, subject to the provisions of this Act, stand forfeited to the Central Government free from all encumbrances.

(4) Where any shares in a company stand forfeited to the Central Government under this Act, then, the

company shall, notwithstanding anything contained in the Companies Act, 1956, (1 of 1956) or the articles of association of the company, forthwith register the Central Government as the transferee of such shares.

8. **Burden of proof.**—In any proceedings under this Act, the burden of proving that any property specified in the notice served under section 6 is not illegally acquired property shall be on the person affected.

9. **Fine in lieu of forfeiture.**—(1) Where the competent authority makes a declaration that any property stands forfeited to the Central Government under section 7 and it is a case where the source of only a part, being less than one-half, of the income, earnings or assets with which such property was acquired has not been proved to the satisfaction of the competent authority, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to one and one-fifth times the value of such part.

*Explanation.*—For the purposes of this sub-section, the value of any part of income, earnings or assets, with which any property has been acquired, shall be,—

(*a*) in the case of any part of income or earnings, the amount of such part of income or earnings;

(*b*) in the case of any part of assets, the proportionate part the full value of the consideration for the acquisition of such assets

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf the competent authority may, by order, revoke the declaration of forfeiture under section 7 and thereupon such property shall stand released.

10. **Procedure in relation to certain trust properties.**—In the case of any person referred to in clause (*vi*

of *Explanation* 3 to sub-section (2) of section 2, if the competent authority, on the basis of the information and materials available to it, has reason to believe (the reasons for such belief to be recorded in writing) that any property held in trust is illegally acquired property, it may serve a notice upon the author of the trust or, as the case may be, the contributor of the assets out of or by means of which such property was acquired by the trust and the trustees, calling upon them within such time as may be specified in the notice which shall not ordinarily be less than thirty days, to explain the source of the money or other assets out of or by means of which such property was acquired or, as the case may be, the source of the money or other assets which were contributed to the trust for acquiring such property and thereupon such notice shall be deemed to be a notice served under section 6 and all the other provisions of this Act shall apply accordingly.

*Explanation.*—For the purposes of this section "illegally acquired property", in relation to any property held in trust, includes—

(*i*) any property which if it had continued to be held by the author of the trust or the contributor of such property to the trust would have been illegally acquired property in relation to such author or contributor;

(*ii*) any property acquired by the trust out of any contributions made by any person which would have been illegally acquired property in relation to such person had such person acquired such property out of such contributions.

**11. Certain transfers to be null and void.**—Where after the issue of a notice under section 6 or under section 10, any property referred to in the said notice is transferred by any mode whatsoever such transfer shall, for the purposes of the proceedings under this Act, be ignored and if such property is subsequently forfeitey to the Central Government under section 7, then the transfer of such property shall be deemed to be null and void.

**12 Constitution of Appellate Tribunal.**—(1) The Central Government may, by notification in the Official Gazette, constitute an Appellate Tribunal to be called the Appellate Tribunal for Forfeited Property consisting of a Chairman and such number of other members (being officers of the Central Government not below the rank of a Joint Secretary to the Government) as the Central Government thinks fit to be appointed by that Government for hearing appeals against the orders made under section 7, sub section (1) of section 9 or section 10.

(2) The Chairman of the Appellate Tribunal shall be a person who is or has been or is qualified to be a Judge of the Supreme Court or of a High Court.

(3) The terms and conditions of the Chairman and other members shall be such as may be prescribed.

(4) Any person aggrieved by an order of the competent authority made under section 7, sub-section (1) of section 9 or section 10, may, within forty-five days from the date on which the order is served on him, prefer an appeal to the Appellate Tribunal:

Provided that the Appellate Tribunal may entertain any appeal after the said period of forty five days, but not after sixty days, from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(5) On receipt of an appeal under sub-section (4), the Appellate Tribunal may, after giving an opportunity to the appellant to be heard, if he so desires, and after making such further enquiry as it deems fit, confirm, modify or set aside the order appealed against.

(6) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches consisting of three members and constituted by the Chairman of the Appellate Tribunal.

(7) The Appellate Tribunal may regulate its own procedure.

**13. Notice or order not to be invalid for error in description.** No notice issued or served no declaration made, and no order passed, under this Act shall be deemed to be invalid by reason of any error in the description of the property or person mentioned therein if such property or person is identifiable from the description so mentioned.

**14. Bar of jurisdiction.** —No order passed or declaration made under this Act shall be appealable except as provided therein and no civil court shall have jurisdiction in respect of any matter which the Appellate Tribunal or any competent authority is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

**15. Competent authority and Appellate Tribunal to have powers of civil court.**—The competent authority and the Appellate Tribunal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, 5 of 1908, in respect of the following matters namely :—

(a) summoning and enforcing the attendenc of any person examining him on oath ;

(b) requiring the discovery and production of documents ;

(c) receiving evidence on affidavits ;

(d) requisitioning any public record or copy thereof from any court or office :

(e) issuing commissions for examination of witnesses or documents ;

(f) any other matter which may be prescribed.

**16. Information to competent authority.**—(1) Notwithstanding anything contained in any other law, the competent authority shall have power to require any office or authority of the Central Government or a State Government or a local authrity to furnish information in relation

to such persons, points or matter as in the opinion of the competent authority will be useful for, or relevant to the purposes of this Act.

(2) Any officer of the Income-tax Department, the Customs Department or the Central Excise Department or any officer of enforcement appointed under the Foreign Exchange Regulation Act, 1973, (46 of 1973) may furnish *suo motu* any information available with him to the competent authority if in the opinion of the officer such information will be useful to the competent authority for the purposes of this Act.

**17. Certain officers to assist competent authority and Appellate Tribunal.**—For the purposes of any proceey dings under this Act, the following officers are hereby empowered and required to assist the competent authority and the Appellate Tribunal, namely :—

(a) officers of the Customs Department ;

(b) officers of the Central Excise Department ;

(c) officers of the Income-tax Department ;

(d) officers of enforcement appointed under the Foreign Exchange Regulation Act, 1973 ; (46 of 1973.)

(e) officers of police ;

(f) such other officers of the Central or State Government as are specified by the Central Government in this behalf by notification in the Official Gazette.

**18. Power of competent authority to require certain Officers to exercise certain powers.**—(1) For the purposes of any proceedings under this Act or the initiation of any such proceedings, the competent authority shall have power to cause to be conducted any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account or anyother relevant matters.

(2) For the purposes referred to in sub-section (1), the competent authority may, having regard to the nature of the inquiry, investigation or survey, require an officer of the Income-tax Department to conduct or cause to be conducted such inquiry, investigation or survey.

(3) Any officer of the Income-tax Department who is conducting or is causing to be conducted any inquiry, investigation or survey required to be conducted under sub-section (2), may, for the purpose of such inquiry, investigation or survey, exercise any power (including the power to authorise the exercise of any power) which may be exercised by him for any purpose under the Income-tax Act, 1961 (43 of 1961.) and the provisions of the said Act shall, so far as may be, apply accordingly.

19. **Power to take possession.**—(1) Where any property has been declared to be forfeited to the Central Government under this Act, or where the person affected has failed to pay the fine due under sub-section (1) of section 9 within the time allowed therefor under sub-section (3) of that section, the competent authority may order the person affected as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or to any person duly authorised by it in this behalf within thirty days of the service of the order.

(2) If any person refuses or fails to comply with an order made under sub-section (1) the competent authority may take possession of the property and may for that purpose use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the competent authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the service of any police officer to assist the competent authority and it shall be the duty of such officer to comply whith such requisition.

20. **Rectification of mistakes.**—With a view to rectifying any mistakes apparent from record, the competent authority or the Appellate Tribunal, as the case may be, may amend any order made by it within a period of one year from the date of the order :

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without

giving to such person a reasonable opportunity of being heard.

21. **Findings under other laws not conclusive for proceedings under this Act** —No finding of any officer or authority under any other law shall be conclusive for the purposes of any proceedings under this Act.

22. **Service of notices and orders** —Any notice or order issued or made under this Act shall be served;

(*a*) by tendering the notice or order or sending it by registered post to the person for whom it is intended or to his agent :

(*b*) if the notice or order cannot be served in the manner provided in clause (*a*), by affixing it on a conspicuous place in the property in relation to which the notice or order is issued or made, or on some conspicuous part of the premises in which the person for whom it is intended is known to have last resided or carried on business or personally worked for gain.

23. **Protection of action taken in good faith.**—No suit, prosecution or other proceeding shall lie against the Central Government or any officer of the Central or State Government for anything which is done, or intended to be done, in good faith, in pursuance of this Act or the rules made thereunder.

24. **Act to have overriding effect.**—The provisions of this Act shall have effect notwith standing anything inconsistent therewith contained in any other law for the time being in force.

25. **Provisions of the Act not to apply to certain properties held in trust.**—Nothing contained in this Act shall apply in relation to any property held by a trust or an institution created or established wholly for public religious or charitable purposes if—

(*i*) such property has been so held by such trust or institution from a date prior to the commencement of this Act : or

(*ii*) such property is wholly traceable to any property held by such trust or institution prior to the commencement of this Act.

**26. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the terms and conditions of service of the Chairman and other members of the Appellate Tribunal under sub-section (3) of section 12 :

(*b*) the powers of a civil court that may be exercised by the competent authority and the Appellate Tribunal under clause (f) of section 15 :

(*c*) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**27. (1) Repeal and saving.**—The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Ordinance, 1975, (20 of 1975) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provision of this Act.

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 29 LCA 1976

*Bangalore, dated the 20th April 1976.*

Ordered that the Payment of Wages (Amendment) Act, 1976 (29 of 1976) published in Part II, Section 1 of the *Gazette of India*, Extraordinary dated 12th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka.

B. NAGESHA RAO,

*Under Secretary to Government,*
*Department of Law and Parly. Affairs.*

Assented to on 11th February 1976 Act No. 29 of 1976.

# THE PAYMENT OF WAGES (AMENDMENT) ACT, 1976

An Act

*further to amend the payment of Wages Act, 1936.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title and commencement**:—(1) This Act may be called the Payment of Wages (Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 12th day of November, 1975.

2. **Amendment of Section 1**:—In the Payment of Wages Act, 1936 (4 of 1936) (hereinafter referred to as the principal Act), in sub-section (6) of section 1, for the

words "four hundred rupees", the words "one thousand rupees" shall be substituted.

**3. Amendment of Section 6:**—In section 6 of the principal Act, the following proviso shall be inserted at the end, namely :—

"Provided that the employer may, after obtaining the written authorisation of the employed person, pay him the wages either by cheque or by crediting the wages in his bank account.".

**4. Amendment of Section 7:**—In sub-section (2) of Section 7 of the principal Act, after clause (o), the following clause shall be inserted, namely :—

"(p) deductions, made with the written authorisation of the employed person, for contribution to the Prime Minister's National Relief Fund or to such other Fund as the Central Government may, be notification in the Official Gazette, specify.".

**5. Repeal and Saving:**—(1) The Payment of Wages (Amendment) Ordinance, 1975 (21 of 1975,), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

# PART IV

## Section 1-B

## CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRET

Notification No. LAW 28 LCA 76.

*Bangalore, dated 21st April 1976.*

Ordered that the House of the People (Extension of Duration Act, 1976 (Central Act No. 30 of 1976) published in Part II, Section 1 of the *Gazette of India*, Extraordinary dated 16th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of [redacted]

B. NAGESHA RAO,

12 *Under Secretary to Government,*
*Department of Law and Parliamentary Affairs*

Assented to on 16th February 1976 Act No. 30 of 1976.

## THE HOUSE OF THE PEOPLE (EXTENSION OF DURATION) ACT 1976,

AN

ACT

*to provide for the extension of the ..... House of the People.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title.** —This Act may be called the House of the People (Extension of Duration) Act, 1976.

2. **Extension of duration of present House of the People.**—The period of five years [being the period for which the House of the People may, under clause (2) of article 83 of the Constitution, continue from the date appointed for its first meeting] in relation to the present House of the People shall, while the Proclamations of Emergency issued on the 3rd day of December, 1971 and on the 25th day of June, 1975, are both in operation, be extended for a period of one year:

Provided that it both or either of the said Proclamations cease or ceases to operate before the expiration of the said period of one year, the present House of the People shall, unless previously dissolved under clause (2) of article 83 of the Constitution, continue until six months after the cesser of operation of the said Proclamations or Proclamation but not beyond the said period of one year.

LAW AND PARLIAMENTARY SECRETARIAT

Notification No. LAW 25 LCA 1976.

*Bangalore, dated 21st April 1976.*

Ordered that the Conservation of Foreign and Prevention of Smuggling Aetivities (Amendment) Act, 1976 (20 of 76) published) in Part II, Section I of the *Gazette of India*, Extraordinary dated 9th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

*Under Secretary to Government,*

19 *Dept, of Law and Parliamentary Affairs.*

## THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ACT, 1976

Act No. 20 of 1976. Assented to on 9th February 1976

AN

ACT

*further to amend the Conservation of Foreign exchange and Prevention of Smuggling Activities Act, 1974*

BE it enacted by Parliament in the Twenty-Seventh Year of the Republic of India as follows:—

1. **Short title and Commencement** (*1*) This Act may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 12th day of December, 1975

2. **Amendment of Section 9.**—In section 9 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) (hereinafter referred to as the principal Act), in sub-section (1), for the words, figures and letters "the 31st day of December, 1975", the words figures and letters "the 31st day of December, 1977" shall be substituted.

3. **Temporary Amendments.**—During the period when the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution on the 3rd day of December, 1971 and the Proclamation of Emergency issued under that clause on the 25th day of June, 1975, are both in operation, the principal Act shall have effect subject to the modifications that—

(1) in section 10—

(a) for the words "one year from the date of detention", the words "a period of one year from the date of detention or the specified period, whichever period expires later," shall be substituted;

(b) for the words "two years from the date of detention;", the words "a period of two years from the date of detention or the specified period, whichever period, expires later;" shall be substituted;

(c) the following *Explanation* shall be inserted at the end, namely :—

'*Explanation.*— In this section and in section 10A, "specified period" means the period during which the Proclamation of Emergency issued undr clause (1) of article 352 of the Constitution on the 3rd day of December, 1971 and the Proclamation of Emergency issued under that clause on the 25th day of June, 1975, are both in operation ;

(2) after section 10, the following section shall be inserted, namely:—

"**10A. Extension of period of detention** (*1*) Notwithstanding anything contained in any other provision of this Act, the detention of every person detained under a detention order which has been confirmed under clause (*1*) of

section 8 before the commencement of the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1976, and which is in force immediately before such commencement shall, unless his detention has been continued by the appropriate Government under the said clause for a period shorter than one year from the date of his detention, continue until the expiry of a period of one year from the date of his detention under such order or until the expiry of the specified period, whichever period expires later:

Provided that nothing contained in this sub-section shall effect the power of the appropriate Government to revoke or modify such detention order at any earlier time.

(2) Notwithstanding anything contained in any other provision of this Act, the detention of every person detained under a detention order which has been confirmed under clause (f) of section 8 read with sub section (2) of section 9 before the commencement of the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1976, and which is in force immediately before such commencement, shall, unless his detention has been continued by the appropriate Government under the said clause (f) read with the said sub-section (2), for a period shorter than two years from the date of his detention, continue until the expiry of a period of two years from the date of his detention under such order or until the expiry of the specified period, whichever period expires later :

Provided that nothing contained in this sub-section shall affect the power of the appropriate Government to revoke or modify such detention order at any earlier time."

4. **Amendment of section 12.**—In section 12 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be sub-stituted, namely: –

"(1) The Central Government may, at any time direct that any person detained in pursuance of a denten-

tion order made by that Government or an officer subordinate to that Govt. or by a State Govt. or by an officer subordinate to a State Government may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts and may, at any time, cancel his release.

(1A) A State Government may at any time direct that any person detained in pursuance of a detention order made by that Government or by an officer subordinate to that Government may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.'

(b) in sub-section (2), for the words, brackets and figure "under sub-section (1) the appropriate Government" the words, brackets, figures and letter "under sub-section (1) or sub-section (1A), the Government directing the release" shall be substituted.

(c) in sub section (3) and (5), for the word, bracket and figure "sub-section (1)", the words brackets figure and letter "sub-section (1) or sub-section (1A)" shall be substituted.

5. **Repeal and saving.**—(1) The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Second Amendment) Ordinance 1975, 20 of 1975 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended and modified by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW. 30 LCA. 1976.

*Bangalore dated 23rd April 1976.*

Ordered that the Supreme Court Judges (Conditions of Service) Amendment Act, 1976 (Central Act No. 36 of 1976) published in Part II, Section I of the *Gazette of India*, Extraordinary dated 19th March 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

*Under Secretary to Government,*
*Department of Law and Parly. Affairs.*

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

### (Legislative Department)

*New Delhi, the 19th March 1976/phalguna 29, 1897 (Saka)*

The following Act of Parliament received the assent of the President on the 18th March 1976, and is hereby published for general information:—

## THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT ACT, 1976

No. 36 of 1976.

[18*th March* 1976]

An Act further to amend the Supreme Court Judges (Conditions of Service) Act, 1958.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follow:

**1. Short title and commencement.**—(1) This Act may be called the Supreme Court Judges (Conditions of Service) Amendment Act, 1976.

(2) It shall be deemed to have come into force on the 1st day of October, 1974.

**2. Amendment of section 14.**—In the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958.) (hereinafter referred to as the principal Act), section 14 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), any Judge to whom that sub-section applies and who is in service on or after the 1st day of October, 1974, may, if he has elected under the proviso to that sub-section to receive the pension payable to him under Part II or, as the case may be, Part III of the Schedule before the date on which the Supreme Court Judges (Conditions of Service) Amendment Act, 1976, receives the assent of the President cancel such election and elect afresh to receive the pension payable to him under Part I of the Schedule and any such Judge who dies before the date of such assent, shall be deemed to have elected afresh to be governed by the provisions of the said Part I if the provisions of that Part are more favourable in his case."

**3. Insertion of new section 16A.**—After section 16 of the principal Act, the following section shall be inserted namely:—

"**16A. Family pension and gratuity.**—(1) The rules, notifications and orders for the time being in force with respect to the grant of family pension in relation to an officer of the Central Civil Services, Class I, shall apply to the grant of family pension in relation to a Judge who be

ing in service on or after the 1st day of October, 1974, dies, whether before or after retirement, in circumstances to which section 16 does not apply.

(2) The rules, notifications and orders for the time being in force with respect to the grant of death-cum-retirement gratuity benefit to or in relation to an officer of the Central Civil Services, Class I (including the provisions relating to deductions from pension for the purpose) shall apply to or in relation to the grant of death cum-retirement gratuity benefit to or in relation to a Judge who, being in service on or after the 1st day of October, 1974, retires or dies in circumstances to which section 16 does not apply, subject to the modifications that—

(i) the minimum qualifying service for the purpose of entitlement to the gratuity shall be two years and six months;

(ii) the amount of gratuity shall be calculated on the basis of twenty days' salary for each completed year of service as a Judge; and

(iii) the maximum amount of gratuity payable shall be thirty thousand rupees.

*Explanation.*—In this section, the expression "Judge" has the same meaning as in section 13'.

4. **Insertion of new sections 23A, 23B and 23C.**—After section 23 of the principal Act, the following sections shall be inserted, namely:—

**23A. Conveyance allowance.**—Every Judge shall be entitled to a conveyance allowance of three hundred rupees per month, subject to the maintenance of a motor car by him.

**23B Sumptuary allowance.**—The Chief Justice and each of the other Judges shall be entitled to a sumptuary allowance of five hundred rupees per month and three hundred rupees per month respectively.

**23. Medical facilities for retired Judges** —Every retired Judge shall, with effect from the date on which the Supreme Court Judges (Conditions of Service) Amendment Act, 1976 receives the assent of the President, be entitled, for himself and his family, to the same facilities as respects Medical treatment and on the same conditions as a retired officer of the Central Civil Services, Class I and his family, are entitled under any rules and orders of the Central Government for the time being in force."

5. **Amendment of Section 24.**—In section 24 of the principal Act, for sub-section (3), the following sub section shall be substituted, namely:—

"(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

6. **Amendment of the Schedule.**—In the Schedule to the principal Act.—

(1) In Part I, after paragraph 5, the following paragraph shall be inserted, namely:—

'6. In the case of a Judge to whom this Part applies and who has retired on or after the 1st day of October 1974, the foregoing provisions of this Part shall have effect subject to the modifications that—

(a) in paragraph 2,—

(i) in clause (b),—

(A) for the figures "470", the figures "658" shall be substituted ;

(B) for the figures "1,200", the figures "1,680" shall be substituted ;

(ii) in the proviso, for the figures "26,000", the figures "36,400" shall be substituted ;

(b) in paragraph 5, for the figures "7,500", the figures "10,500" shall be substituted'.

(2) In Part II, after paragraph 2, the following paragraph shall be inserted, namely :—

'3. In the case of a Judge to whom this Part applies and who has retired on or after the 1st day of October, 1974, the foregoing provisions of this Part shall have effect subjcet to the modifications that in paragraph 2,—

(i) in clause (b) for the figures "1,400", the figures "1,960" shall be substituted ;

(ii) in the proviso, for the figures "20,000", the figures "28,000" shall be substituted ;'.

(3) In Part III, after paragraph 2, the following paragraph shall be inserted, namely:...

'3, In the case of a Judge to whom this Part applies and who has retired on or after the 1st day of October 1974, the foregoing provisions of this Part shall have effect subject to the modifications that in clause (b) of paragraph 2, for the figures "500" and "2,500", the figures "700" and "3,500" shall respectively be substituted'.

K. K. Sundaram,

*Secretary to the Government of India.*

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 12 LCA 76

*Bangalore, dated 2nd April 1976.*

Ordered that the Prevention of Food Adulteration (Amendment) Act, 1976 published in Part II, Section I of the Gazette of India, Extraordinary dated 17th February 1976 be republished in the Karnataka Gazette for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government,*
1 *Department of Law and Parly. Affairs.*

[Assented to on 17th February 1976 Act No. 34 of 1976]

# THE PREVENTION OF FOOD ADULTERATION (AMENDMENT) ACT, 1976

AN

ACT

*further to amend the Prevention of Food Adulteration Act, 1954*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Prevention of Food Adulteration(Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of section 2.**—In section 2 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) (hereinafter referred to as the principal Act),—

(*a*) clause (*i*) shall be re-numbered as clause (*ia*) thereof and before that clause as so re-numbered, the following clause shall be inserted, namely :—

'(*i*) "adulterant" means any material which is or could be employed for the purposes of adulteration;';

(*b*) in clause (*ia*) as so re-numbered,—

(*i*) in sub clause (*f*), the word "disgusting," shall be omitted;

(*ii*) for sub-clause (*j*), the following sub-clause shall be substituted, namely :—

"(*j*) if any colouring matter other than that prescribed in respect thereof is present in the article, or if the amounts of the prescribed colouring matter which is present in the article are not within the prescribed limits of variability;";

(*iii*) for sub-clause (*l*) the following sub-clauses and *Explanation* shall be substituted, namely :—

"(*l*) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities not within the prescribed limits of variability, which renders it injurious to health;

(*m*) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities not within the prescribed limits of variability but which does not render it injurious to health:

Provided that, where the quality or purity of the article, being primary food, has fallen below the prescribed standards or its constituents are present in quantities not within the prescribed limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then, such article shall not be deemed to be adulterated within the meaning of this sub-clause.

*Explanation.*—Where two or more articles of primary food are mixed together and the resultant articles of food—

(*a*) is stored, sold or distributed under a name which denotes the ingredients thereof; and

(*b*) is not injurious to health,

then, such resultant article shall not be deemed to be adulterated within the meaning of this clause;";

(*c*) in clause (*iv*), the following proviso shall be inserted at the end, namely :—

"Provided that no person who has any financial interest in the manufacture, import or sale of any article

of food shall be appointed to be a Director under this clause ;";

(*d*) for clause (*v*), the following clause shall be substituted, namely :—

'(*v*) "food" means any article used as food or drink for human consumption other than drugs and water and includes—

(*a*) any article which ordinarily enters into, or is used in the composition or Preparation of human food,

(*b*) any flavouring matter or condiments, and

(*c*) any other article which the Central Government may, having regard to its use, nature, substance or quality declare, by notification in the Official Gazette, as food for the purposes of this Act ;";

(e) for clause (vi), the following clause shall be substituted, namely :—

'(vi) 'Food (Health) Authority" means the Director of Medical and Health Services or the Chief Officer in charge of Health administration in a State, by whatever designation he is known and includes any officer empowered by the Central Government or the State Government, by notification in the Official Gazette, to exercise the powers and perform the duties of the Food (Health Authority under this Act with respect to such local area as may be specified in the notification ;';

(f) after clause (viii), the following clauses shall be inserted, namely :—

'(viiia) "Local (Health) Authority", in relation to a local area, means the officer appointed by the Central Government or the State Government, by notification in the Official Gazette, to be in charge of Health administration in such area with such designation as may be specified therein ;

(viiib) "manufacture" includes any process incidental or ancillary to the manufacture of an article o

(g) after clause (xii), the following clause shall be inserted, namely :—

'(xiia) "primary food" means any article of food, being a produce of agriculture or Horticulture in its natural form;'.

3. **Amendment of Section 3**—In section 3 of the principal Act.—

(a) in sub section (2),—

(i) for clause (b), the following clause shall be substituted, namely —

"(b) the Director of the Central Food Laboratory or, in a case where more than one Central Food Laboratory is established, the Directors of such Laboratories, *ex-officio*.";

(ii) for clause (*g*), the following clauses shall be substituted, namely :—

"(g) one representative each, nominated by the Central Government to represent the agricultural, commercial and industrial interests ,

(gg) five representatives nominated by the Central Government to represent the consumers' interests, one of whom shall be from the hotel industry;";

(b) in sub-section (3), for the brackets and letter "(g).", the brackets and letters "(*g*), (*gg*)," shall be subttituted.

4. **Insertion of new section 3A**—After section 3 of the principal Act, the following section shall be inserted namely :—

"3A. **Appointment of Secretary and other staff**—(1) The Central Government shall appoint a Secretary to the Committee who shall, under the control and direction of the Committee, exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Committee.

(2) The Central Government shall provide the Committee with such clerical and other staff as that Government considers necessary."

**5. Amendment of section 4**—In section 4 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government shall, by notification in the Official Gazette, establish one or more Central Food Laboratory or Laboratories to carry out the functions entrusted to the Central Food Laboratory by this Act or any rules made under this Act :

Provided that the Central Government may, by notification in the Official Gazette, also specify any laboratory or institute as a Central Food Laboratory for the purposes of this Act";

(b) in sub-section (2), for clause (*a*), the following clause shall be substituted, namely :—

"(a) the functions of a Central Food Laboratory and the local area or areas within which such functions may be carried out;"

**6. Amendment of section 7**—In section 7 of the principal Act,—

(a) in clause (*iv*), the word "or" shall be omitted;

(b) in clause (*v*), the word "or" shall be inserted at the end;

(c) after clause (*v*) as so amended, the following clause shall be inserted, namely ;—

"(vi) any adulterant.";

(d) the following *Explanation* shall be inserted at the end, namely :—

"*Explanation*.—For the purposes of this section, a person shall be deemed to store any adulterated food or misbranded food or any article of food referred to in clause (*iii*) or clause (*iv*) or clause (*v*) if he stores such food for the manufacture therefrom of any article of food for Sale.".

**7. Amendment of section 8**.—In section 8 of the principal Act, after the proviso, the following proviso shall be inserted, namely :—

"Provided further that different public analysts may be appointed for different articles of food"

8 **Amendment of section 10.**—In section 10 of the principal Act.—

(a) in sub-section (1),—

(i) for clause (c), the following clause shall be substituted, namely:—

"(c) with the previous approval of the Local (Health) Authority having jurisdiction in the local area concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of any article of food in the interest of public health.";

(ii) the following *Explanation* shall be inserted at the end, namely:—

'*Explanation.*—For the purposes of sub-clause (iii) of clause (a), "consignee" does not include a person who purchases or receives any article of food for his own consumption;';

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Any food inspector may enter and inspect any place where any article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food for sale, or exposed or exhibited for sale or where any adulterant is manufactured or kept, and take samples of such article of food or adulterant for analysis:

Provided that no sample of any article of food, being primary food shall be taken under this sub-section if it is not intended for sale as such food.";

(c) in sub-section (4), in the opening paragraph, the following shall be inserted at the end, namely:—

"and he shall, in either case, take a sample of such article and submit the same for analysis to a public analyst:";

(d) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) Where any article of food seized under sub-section (4) is of a perishable nature and the Local (Health) Authority is satisfied that such article of food is so deteriorated that it is unfit for human consumption, the

aid Authority may, after giving notice in writing to the vendor, cause the same to be destroyed.";

(e) in sub-section (5),—

(i) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that the power to break open the package or door shall be exercised only after the owner or any other person in charge of of the package or, as the case may be, in occupation of the premises, if he is present therein, refuses to open the package or door on being called upon to do so, and in their case after recording the reasons for doing so :" ;

(ii) in the second proviso, for the words and figures 'Code of Criminal Procedure 1898", (5 of 1898.) the words and figures "Code of Criminal Procedure, 1973" (2 of 1974.) shall be substituted ;

(f) in sub-section (6),

(i) for the portion beginning with the words "Any material" and ending with the words "for purposes of adulteration", the following shall be substituted, namely :-

"Any adulterant found in the possession of a manufacturer or distributor of, or dealer in any article of food or in any of the premises occupied by him as such" ;

(ii) for the words "may be seized by the food inspector", the words "and any books of account or other documents found in his possession or control and which would be useful for, or relevant to, any investigation or proceeding under this Act, may be seized by the food inspector" shall be substituted ;

(iii) for the words "if necessary a sample of such material", the words "a sample of such adulterant" shall be substituted ;

(iv) the following proviso shall be inserted at the end, namely :—

"Provided that no such books of account or other documents shall be seized by the food inspector except with the previous approval of the authority to which he is officially subordinate."

(g) after sub-section (7), the following sub-sections shall be inserted, namely :—

"(7A) Where any books of account or other documents are seized under sub-section (6), the food inspector shall, within a period not exceeding thirty days from the date of seizure, return the same to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in such manner as may be prescribed have been taken :

Provided that where such person refuses to so certify, and a prosecution has been instituted against him under this Act, such books of account or other documents shall be returned to him only after copies thereof or extracts therefrom as certified by the court have been taken.

(7B) When any adulterant is seized under sub-section (6), the burden of proving that such adulterant is not meant for purposes of adulteration shall be on the person from whose possession such adulterant was seized."

(h) in sub-section (8), for the words and figures "under section 57 of the Code of Criminal Procedure, 1898" (5 of 1898), the words and figures "under section 42 of the Code of Criminal Procedure, 1973" (2 of 1974), shall be substituted ;

(i) in sub-section (9),—

( ) in clause (a), after the words "article of food" the words "or adulterant" shall be inserted ;

(B) For the words "with fine which may extend to five hundered rupees", the words "with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees" shall be substituted.

9. **Amendment of section 11.** In section 11 of the principal Act —

(a) for sub-sections (1) and (2) the following sub sections shall be substituted, namely :—

"(1) When a food inspector takes a sample of food for analysis, he shall—

(a) give notice in writing then and there of his intention to have it so analysed to the person from whom he

has taken the sample and to the person, if any. whose name address and other particulars have been disclosed under section 14A ;

(b) except in special cases provided by rules under this Act, divided the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature of thumb impression of the person from whom the sample has been taken in such place and in such manner as may be prescribed :

Provided that where such person refuses to sign or put his thumb impression the food inspector shall call upon one or more witnesses and take his or their signatures or thumb impressions, as the case may be,in lieu of the signature or thumb impression of such person ;

(c) (i) send one of the parts for analysis to the public analyst under intimation to the Local (Health Authority ; and

(ii) send the remaininig two parts to the Local (Health) Authority for the purposes of sub-section (2) of this section and sub-section (2A) and (2E) of section 13.

(2) Where the part of the sample sent to the public analyst under sub-clause (i) of clause (c) of sub-section (1) is lost or damaged, the Local (Health) Authority shall, on a requisition made to it by the public analyst or the food inspector, despatch one of the parts of the sample sent to the it under sub-clause (ii) of the said clause (c) to the public analyst for analysis.".

(b) in sub-section (3),—

(i) after the words "article of food", the words "or adulterant" shall be inserted :

(ii) for the words "the food inspector shall send a sample of it", the words "the food inspector shall, by the immediatly succeeding working day, send a sample of the article of food or adulterant or both, as the case may be," shall be substituted ;

(c) in sub-section (4),—

(i) for the opening paragraph the following Paragraph shall be substituted, namely :—

"(4) An article of food seized under sub-section (4) of section 10, unless destroyed under sub-section (4A) of that section, and any adulterant seized under sub-section (6) of that section shall be produced before a magistrate as soon as possible and in any case not later than seven days after the receipt of the report of the public analyst:";

(ii) the first proviso shall be omitted and in the second proviso, the word "further" shall be omitted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) If it appears to the magistrate on taking such evidence as he may deem necessary—

(a) that the article of food produced before him under sub-section (4) is adulterated or misbranded, he may order it—

(i) to be forfeited to the Central Government, the State Government or the local authority, as the case may be; or

(ii) to be destroyed at the cost of the owner or the person from whom it was seized so as to prevent its being used as human food; or

(iii) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name; or

(iv) to be returned to the owner, on his executing a bond with or without sureties, for being sold under its appropriate name or, where the magistrate is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing for being sold after reprocessing under the supervision of such Officer as may be specified in the order;

(b) that the adulterant seized under sub-section (6) of section 10 and produced before him is apparently of a kind which may be employed for purposes of adulteration and for the possession of which the manufacturer,

distributor or dealer, as the case may be, is unable to account satisfactorily, he may order it to be forfeited to the Central Government, the State Government or the local authority, as the case may be.";

(e) in sub-section (6), for the portion beginning with the words "if it appears" and ending with the words "article was taken", the following shall be substituted, namely :—

"If it appears to the magistrate that any such—

(a) article of food is not adulterated; or

(b) adulterant which is purported to be an adulterant is not an adulterant,

the person from whose possession the article of food or adulterant was taken."

10. Amendmnet of section 13.—In section 13 of the principal Act,

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—

"(1) The public analyst shall deliver, in such form as may be prescribed, a report to the Local (Health) Authority of the result of the analysis of any article of food submitted to him for analysis.

(2) On receipt of the report of the result of the analysis under sub-section (1) to the effect that the article of food is adulterated, the Local (Health) Authority shall after the institution of prosecution against the person from whom the sample of the article of food was taken and the person, if any, whose name, address and other particulars have been disclosed under section 14A, forward, in such manner as may be prescribed, a copy of the report of the result of the analysis to such person or persons, as the case may be, informing such person or persons that if it is so desired, either or both of them may make an application to the court within a period of ten days from the date of receipt of the copy of the report to get the sample of the article of food kept by the Local (Health) Authority analysed by the Central Food Laboratory.

(*2A*) When an application is made to the court under sub section (*2*), the court shall require the Local (Health) Authority to forward the part or parts of the sample kept by the said Authority and upon such requisition being made the said Authority shall forward the part or parts of the sample to the court within a period of five days from the date of receipt of such requisition.

(*2B*) On receipt of the part or parts of the sample from the Local (Health) Authority under sub-section (*2A*), the court shall first ascertain that the mark and seal or fastning as provic ed in clause (*b*) of sub section (*1*) of section 11 are intact and the signature or thumb Impression, as the case may be, is not tampered with, and despatch the part or, as the case may be, one of the parts of the sample under its own seal to the Director of the Central Food Laboratory who shall thereupon send a certificate to the court in the prescribed form within one month from the date of receipt of the part of the sample specifying the result of the analysis.

(*2C*) Where two parts of the sample have been sent to the court and only one part of the sample has been sent by the court to the Director of the Central Food Laboratory under sub-section (*2B*), the court shall, as soon as practicable, return the remaining part to Local (Health) Authority and that Authority shall destroy that part after the certificate from the Director of the Central Food Laboratory has been received by the court:

Provided that where the part of the sample sent by the court to the Director of the Central Food Laboratory is lost or damaged, the court shall require the Local (Health) Authority to forward the part of the sample, if any, retained by it to the court and on receipt thereof, the court shall proceed in the manner provided in sub section (*2B*).

(*2D*) Until the receipt of the certificate of the result of the analysts from the Director of the Central Food Laboratory, the court shall not continue with the proceeding pending before it in relation to the prosecution.

(*2E*) If, after considering the report, if any, of the food Inspector or otherwise, the Local (Health) Authority is of the opinion that the report delivered by the public analyst under sub-section (*1*) is erroneous, the said Authority shall forward one of the parts of the sample kept by it to any other public analyst for analysis and if the report of the result of the analysis of the part of the sample by that other public analyst is to the effect that the article of food is adulterated, the provisions of sub-sections (*2*) to *2D*) shall, so for as may be, apply."

(*b*) in sub-sections (*3*) and (*4*) for the words, brackets and figure "under sub-section (*2*)", the words, brackets figure and letter "under sub-section (*2B*)" shall be substituted;

(*c*) in sub-section (*3*) for the proviso, the following proviso shall be substituted, namely:—

"Provided that any document purporting to be a certificate signed by the Director of the Central Food Laboratory [not being a certificate with respect to the analysis of the part of the sample of any article of food referred to in the proviso to sub-section (*1A*) of section [*6* shall be final and conclusive evidence of the facts stated therein.";

(*d*) the following Explanation shall be added at the end, namely:—

*Explanation*.—In this section, and in clause (f) of sub-section (1) of section 16, "Director of the Central Food Laboratory" shall include the officer for the time being in charge of any Food Laboratory (by whatever designation he is known) recognised by the Central Government for the purposes of this section. ;

11. **Amendment of section 14.**—In section 14 of the principal Act,—

(a) for the words "manufacturer distributor or dealer of", the words "manufacturer or distributor of, or dealer in," shall be substituted ;

(b) before the *Explanation*, the following proviso shall be inserted, namely :—

Provided that a bill cash memorandum or invoice in respect of the sale of any article of food given by a manufacturer or distributor of, or dealer in, such article to the vendor thereof shall be deemed to be a warranty given by such manufacturer, distributor or dealer under this section.".

12. **Amendment of section 16.**—In section 16 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Subject to the provisions of sub-section (1A), if any person—

(a) whether by himself or by any other person on his behalf, imports into India or manufactures sale, or stores, sells or distributes any article of food —

(i) which is adulterated within the meaning of sub-clause (m) of clause (ia) of section 2 or misbranded within the meaning of clause (ix) of that section or the sale of which is prohibited under any provision of this Act or any rule made thereunder or by an order of the Food (Health) Authority ;

(ii) other than an article of food referred to in sub-clause (i), in contravention of any of the provisions of this Act or of any rule made thereunder ; or

(b) whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any adulterant which is not injurious to health ; or

(c) prevents a food inspector from taking a sample as authorised by this Act; or

(d) prevents a food inspector from exercising any other power conferred on him by or under this Act ; or

(e) being a manufacturer of an article of food, has in his possession, or in any of the premises occupied by him, any adulterant which is not injurious to health ; or

(f) uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory or by a public analyst or any extract thereof for the purpose of advertising any article or food ; or

(g) whether by himself or by any other person on his behalf, gives to the vendor a false warranty in writing in respect of any article of food sold by him,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and with fine which shall not be less than one thousand rupees ;

Provided that.—

(i) if the offence is under sub-clause (i) of clause (a) and is with respect to an article of food, being primary food, which is adulterated due to human agency or is with respect to an article of food which is misbranded within the meaning of sub-clause (k) of clause (ix) of section 2 ; or

(ii) if the offence is under sub-clause (ii) of clause (a) but not being an offence with respect to the contravention of any rule made under clause (a) or clause (g) of sub-section (1A) of section 23 or under clause (b) of sub-section (2) of section 24,

the court may, for any adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years, and with fine which shall not be less than five hundred rupees :

Provided further that if the offence is under sub-clause (ii) of clause (a) and is with respect to the contravention of any rule made under clause (a) or clause (g) of sub-section (1A) of section 23 or under clause (b) of sub-section (2) of section 24, the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees."

(b) sub-section (1A) shall be re-numbered as sub section (1AA) and before that sub-section as so re-numbered the following sub-section shall be inserted, namely :—

"(1A). If any person whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes,—

(i) any article of food which is adulterated within the meaning of any of the sub-clauses (e) to (l) (both inclusive) of clause (ia) of section 2 ; or

(ii) any adulterant which is injurious to health,

he shall, in addition to the which he may be liable under the provisions of section 6, be punishable with imprisonment for a term which shall not be less than one year but which may extend to six years and with fine which shall not be less than two thousand rupees ;

Provided that if such article of food or adulterant, when consumed by any person is likely to cause his death, or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code, 45 of 1860 he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with fine which shall not be less than five thousand rupees." ;

(c) for sub-section (1B), the following sub-section shall be substituted, namely ;—

"(1B) If any person in whose safe custody any article of food has been kept under sub-section (1) of section 10 sells or distributes such article which is found by the magistrate before whom it is produced to be adulterated within the meaning of sub-clause (h) of clause (ia) of section 2 and which, when consumed by any person, is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code, 45 of 1860, then, notwithstanding anything contained in sub section (1AA), he shall be punishable with imprisonment for a term which shall not be less than three years but

which may extend to term of life and with fine which sha not be less than five thousand rupees.".

13. **Insertion of new section 16A**—After section 1 of the principal Act, the following section shall be inserte namely :—

"**16A. Power of Court to try cases summarily**—Notwithstanding anything contained in the Code of Crim nal Procedure, 1973, (2 of 1974) all offences under sub section (1) of section 16 shall be tried in a summar way by a Judicial Magistrate of the first class speciall empowered in this behalf by the State Government or b a Metropolitan Magistrate and the provisions of section 262 to 265 (both inclusive) of the said Code shall, as fa as may be, apply to such trial :

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year :

Provided further that when at the commencement of or in the course of, a summary trial under this section it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it, is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.".

14. **Substitution of new section for section 17**—For section 17 of the principal Act, the following section shall be substituted, namely :—

'17. **Offences by companies**—(1) Where on offence under this Act has been committed by a company—

(2) (i) the person, if any, who has been nominated under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereafter in this section referred to as the person responsible), or

(ii) where no person has been so nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company ; and

(b) the company.

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Any company may, by order in writing, authorise any of its directors or managers (such manager being employed mainly in a managerial or supervisory capacity) to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Local (Health) Authority, in such form and in such manner as may be prescribed, that it has nominated such director or manager as the person responsible, along with the written consent of such director or manager for being so nominated.

*Explanation* —Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishment, or branchs or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment branch or unit.

(3) The person nominated under sub-section (2) shall, until—

(i) further notice cancelling such nomination is received from the company by the Local (Health) Authority. or

(ii) he ceases to be a director or, as the case may be, manager of the company; or

(iii) he makes a request in writing to the Local (Health) Authority, under intimation to the company, to

cancel the nomination [which request shall be complied with by the Local (Health) Authority],

whichever is the earliest, continue to be the person responsible:

Provided that where such person ceases to be a director or as the case may be, manager of the company, he shall intimate the fact of such cesser to the Local (Health) Authority:

Provided further that where such person makes a request under clause (iii), the Local (Health) Authority shall not cancel such nomination with effect from a date earlier than the date on which the request is made.

(4) Notwithstanding anything contained in the foregoing sub-sections, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, [not being a person nominated under sub-section (2)] such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section —

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm; and

(c) "manager", in relation to a company engaged in hotel industry, includes in person in charge of the catering department of any hotel managed or run by it.

**15. Amendment of section 18.**—In section 18 of the principal Act, the following proviso shall be inserted at the end, namely:—

"Provided that where the court is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, the court may order the article of food to be returned to the owner, on his executing a bond with or without sureties,

for being sold subject to the other provisions of this Act, after reprocessing under the supervision of such officer as may be specified therin.".

16. **Amendment of section 20.**—In section 20 of the principal Act,—

(*a*) in sub-section (*1*),-

(*i*) for the words "No prosecution for an offence under this Act", the words figures and letter "No prosecution for an offence under this Act, not being an offence under section 14 or section 14A" shall be substituted;

(*ii*) the words "or a local authority", at both the places where they occur, shall be omitted;

(*b*) for sub-section (2) the following sub-sections shall be substituted, namely:—

'(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) an offence punishable under sub-section (*1AA*) of section 16 shall be cognizable and non-bailable".

17. **Amendment of section 20A.**—In section 20A of the principal Act, for the words, brackets and figures "sub-section (1) of section 351 of the Code of Criminal Procedure, 1898" (5 of 1898), the words, brackets and figures "sub-section (3) of section 319 of the Code of Criminal Procedure, 1973" (2 of 1974) shall be substituted.

18. **Insertion of new section 20AA.**—After section 20A of the principal Act, the following section shall be inserted, namely:—

"**Application of the Probation of Offenders Act, 1958 and section 360 of the Code of Criminal Procedure 1973.**—"20AA. Nothing contained in the Probation of Offenders Act1958 (20 of 1958). or section 360 of the Code of Criminal Procedure, 1973 (2 of 1974). shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age."

19. **Substitution of new section for section 21.**—For section 21 of the principal Act, the following section shall be substituted, namely :—

"**Magistrate's power to impose enhanced penalties 21.**— Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, (2 of 1974) it shall be lawful for any Metropolitan Magistrate or any Judicial Magistrate of the first class to pass any sentence authorised by this Act, except a sentence of imprisonment for life or for a term exceeding six years, in excess of his powers under the said section."

20. **Insertion of new section 22A.** After section 22 of the principal Act, the following section shall be inserted, namely :—

**Power of Central Government to give directions.**— "22A. The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of all or any of the provisions of this Act and the State Government shall comply with such directions."

21. **Amendment of section 23.**—In section 23 of the principal Act,—

(a) sub-section (1) shall be re-numbered as sub-section (1A) and—

(i) before sub-section (1A) as so re-numbered, the following sub-section shall be inserted, namely :—

"(1) The Central Government may, after consultation with the Committee and after previous publication by notification in the Official Gazette, make rules to carry out the provisions of this Act :

Provided that consultation with the Committee may be dispensed with if the Central Government is of the opinion that circumstances have arisen which render it necessary to make rules without such consultation, but, in such a case, the Committee shall be consulted within six months of the making of the rules and the Central Government shall take into consideration any suggestions

which the Committee may make in relation to the amendment of the said rules.";

(ii) in sub-section (1A) as so re-numbered,—

(A) for the words "The Central Government may, after consultation with the Committee and subject to the condition of previous publication, make rules" the words "In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—" shall be substituted;

(B) in clause (d), the words "or to preventing adulteration" shall be inserted at the end;

(C) after clause (e), the following clause shall be inserted, namely:—

"(ee) defining the laboratories where samples of articles of food or adulterants may be analysed by public analysts under this Act;";

(D) after clause (h), the following clause shall be inserted, namely:—

"(hh) defining the methods of analysis;";

(b) in sub-section (2), for the words "which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following", the words "which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the sessions aforesaid" shall be substituted.

22. **Amendment of Section 24** —In sub-section (2) of section 24 of the principal Act,—

(i) in clause (a), for the words "and local authority", the words and brackets "local authority and local (Health) Authority under this Act" shall be substituted;

(ii) in clause (b), for the words "may be cancelled or forfeited", the words "may be suspended, cancelled or forfeited" shall be substituted.

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## GOVERNMENT OF KARNATAKA

DEPARTMENT OF LAW AND PARLIAMENTARY AFFAIRS

*No. LAW. 24 LCA. 1976, Bangalore, dated 21st April 1976*

## NOTIFICATION

Odered that the Regional Rural Banks Act, 1976 (21 of 1976) published in Part II Section I of the *Gazette of India* Extraordinary dated 9th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

*Under Secretary to Government,*
*Dept. of Law and Parliamentary Affairs.*

## THE REGIONAL RURAL BANKS ACT, 1976

### ARRANGEMENT OF SECTIONS

*Section*

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Assented to on 9th February 1976 Act No. 21 of 1976

# THE REGIONAL RURAL BANKS ACT, 1976

AN

ACT

*to provide for the incorporation, regulation and winding up of Regional Rural Banks with a view to developing the rural economy by providing, for the purpose of development of agriculture, trade, commerce, industry and other productive activities in the rural areas, credit and other facilities, particularly to the small and marginal farmers, agricultural labourers, artisans and small entrepreneurs, and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

## CHAPTER I

### PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Regional Rural Banks Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 26th day of September, 1975.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "Board" in relation to a Regional Rural Bank, means the Board of directors of that Regional Rural Bank;

(*b*) "Chairman", in relation to a Regional Rural Bank, means the individual appointed or re-appointed under sub-section (1) of section 11 as the Chairman of that bank;

(*c*) "director", in relation to a Regional Rural Bank, means a member of the Board of that bank;

(*d*) "notified area" means the local limits, specified under sub-section (1) of section 3, within which a Regional Rural Bank shall operate;

(*e*) "prescribed" means prescribed by rules made under this Act;

(*f*) "Regional Rural Bank" means a Regional Rural Bank established under sub-section (1) of section 3;

(*g*) "Sponsor Bank", in relation to a Regional Rural Bank, means a bank by which such Regional Rural Bank has been sponsored;

(*h*) "State Government" means,—

(i) in relation to a Regional Rural Bank established in a Union territory, the Central Government;

(ii) in relation to a Regional Rural Bank established in a State, the Government of that State;

(*i*) words and expressions used herein and not defined but defined in the Reserve Bank of India Act, 1934, (2 of 1934) shall have meanings respectively assigned to them in that Act;

(*j*) words and expressions used herein and not defined either in this Act or in the Reserve Bank of India Act, 1934, (2 of 1934) but defined in the Banking Regulation Act, 1949, (10 of 1949) shall have the meanings respectively assigned to them in the Banking Regulation Act, 1949.

## CHAPTER II

### INCORPORATION AND CAPITAL OF REGIONAL RURAL BANKS

3. *Establishment and incorporation of Regional Rural Banks.*—(1) The Central Government may, if requested so to do by a Sponsor Bank, by notification in the Official Gazette, establish in a State or Union territory, one or more Regional Rural Banks with such name as may be specified in the notification and may, by the sail or subsequent notification, specify the local limits within which each Regional Rural Banks shall operate.

(2) Every Regional Rural Bank shall be a body corporate with perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract and may sue and be sued in its name.

(3) It shall be the duty of the Sponsor Bank to aid and assist the Regional Rural Bank, sponsored by it, by subscribing to the share capital of such Regional Rural Bank, recruitment and training of personnel during the first five years of the functioning of the Regional Rural Bank and providing such managerial and financial assistance as may be mutually agreed upon between the Sponsor Bank and the Regional Rural Bank.

4. *Office and agencies.*—(1) A Regional Rural Bank shall have its head office at such place in the notified area as the Central Government may, after consultation with the Reserve Bank and the Sponsor Bank, specify by notification in the Official Gazette.

(2) A Regional Rural Bank may, if it is of opinion that it is necessary so to do, establish its branches or agencies at any place in the notified area.

5. *Authorised capital.*—The authorised capital of each Regional Rural Bank shall be one crore of rupees, divided into one lakh of fully paid-up shares of one hundred rupees each :

Provided that the Central Government may, after consultation with the Reserve Bank and the Sponsor Bank, increase or reduce such authorised capital; so, however, that the authorised capital shall not be reduced below twenty-five lakhs of rupees, and the shares shall be in all cases, fully paid-up shares of one hundred rupees each.

6. *Issued capital.*—(1) The issued capital of each Regional Rural Bank shall be twenty-five lakhs of rupees.

(2) Of the capital issued by a Regional Rural Bank under sub-section (1), fifty per cent shall be subscribed by the Central Government; fifteen per cent by the concerned State Government and thirty-five per cent by the Sponsor Bank.

(3) The Board may, after consultation with the Reserve Bank, the concerned State Government and the Sponsor Bank and with the prior approval of the Central Government, from time to time, increase the issued capital of the Regional Rural Bank; and, where additional capital is issued, such capital shall also be subscribed in the same proportion as is specified in sub-section (2).

7. *Shares to be approved securities.*—Notwithstanding anything contained in the Acts hereinafter mentioned in this section, the shares of a Regional Rural Bank shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, (2 of 1882) and shall also be deemed to be approved securities for the purposes of the Banking Regulation Act, 1949 (10 of 1949).

## CHAPTER III

### MANAGEMENT

8. *Management.*—(1) Subject to the provisions of this Act, the general superintendence, direction and management of the affairs and business of a Regional Rural Bank shall vest in a Board of directors who may exercise all the powers and discharge all the functions which may be exercised or discharged by the Regional Rural Bank.

(2) In discharging its functions, the Board shall act on business principles and shall have due regard to public interest.

9. *Board of directors.*—(1) The Board of directors shall consist of the Chairman appointed under sub-section (1) of section 11, and the following other members, namely :—

(*a*) not more than three directors, to be nominated by the Central Governmen'

(*b*) not more than two directors, to be nominated by the concerned State Government ; and

(*c*) not more than three directors, to be nominated by the Sponsor Bank.

(2) The Central Government may increase the number of members of the Board; so, however, that the number of directors does not exceed fifteen in the aggregate and also prescribe the manner in which the additional number may be filled in.

10. *Term of office of directors.*—A director (other than the Chairman) shall hold office for such period not exceeding two years, from the date when he assumes office, as the authority nominating him may specify at the time when the nomination is made, and may, on the expiry of the said period, continue to hold office until his successor has been nominated and shall also be eligible for re-nomination.

11. *Chairman.*—(1) The Central Government shall appoint an individual to be the Chairman of a Regional Rural Bank and specify the period, not exceeding five years, for which such individual shall, subject to the provisions of sub-section (4), hold office as the Chairman.

(2) The individual, appointed as a Chairman under sub-section (1), shall, on the expiry of the period specifiy under that sub-section, be eligible for re-appointment.

(3) The Chairman shall devote his whole time to the affairs of the Regional Rural Bank and shall have subject to the superintendence, control and direction of the Board, the management of the whole of the affairs of the Regional Rural Bank.

(4) The Chairman shall hold office during the pleasure of the Central Government.

(5) The Chairman shall receive such salary and allowances and be governed by such terms and conditions of service as may be determined by the Central Government.

(6) If the Chairman is, by infirmity or otherwise, rendered incapable of carrying out his duties or is absent, on leave or otherwise, in circumstances not involving the vacation of office, the Central Government may appoint another individual to act as the Chairman during the absence of the first-mentioned Chairman.

12. *Disqualifications.*—A person shall be disqualified for being appointed or, as the case may be, nominated as, and for being, a director, if he—

(*a*) if, or, at any time has been, adjudged insolvent or has suspended payment of his debt or has compounded with his creditors, or

(*b*) is of unsound mind and stands so declared by a competent court, or

(*c*) is, or has been, convicted of an offence which, in the opinion of the Central Government, involves moral turpitude.

13. *Vacation of the seal of directors.*—(1) If a director—

(*a*) becomes subject to any disqualification specified in section 12, or

(*b*) is absent without leave of the Board for more than three consecutive meetings thereof,

his seat shall thereupon become vacant.

(2) The Chairman may resign his office by giving notice thereof in writing to the Central Government and a director may resign his office by giving notice thereof to the authority by which he was nominated; and, on such resignation being accepted, the Chairman or the director, as the case may be, shall be deemed to have vacated his office.

14. *Meetings of Board.*—(1) The Board of directors of a Regional Rural Bank shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman of the Regional Rural Bank shall preside over every meeting of the Board, and, in his absence, such Director as the Chairman may generally, or in relation to any particular meeting, authorise in this behalf shall preside; and, in the absence of both the Chairman and the director so authorised, the directors present at the meeting shall elect one from among themselves to preside over the meeting.

*Explanation.*—For the purposes of this sub-section, "absence" from a meeting means non-attendance for any reason whatsoever at the meeting, or any part of the meeting during which any business is transacted.

(3) All questions at a meeting of the Board shall be decided by a majority of the votes of the directors present and voting; and, in case of equality of votes, the person presiding shall have a second or casting vote.

(4) No director shall, as a director, take part in the discussion of, or vote on, any contract, loan, arrangement or proposal entered into or to be entered into, by or on behalf of the Regional Rural Bank, if heis, in any way, whether directly or indirectly, interested in the contract, loan, arrangement or proposal and, where a director is interested in any such matter, he shall, at the earliest possible opportunity, disclose to the Board the nature of his interest in such contract, loan, arrangement or proposal, and where he does so, his presence at the meeting shall not count for the purpose of forming any quorum at the time of any such discussion or vote, and if he does vote, his vote shall be void:

Provided that nothing contained in this sub-section shall apply to such director by reason only of his being—

(i) a shareholder (other than a director) holding not more than two per cent, of the paid-up capital in any public company within the meaning of the Companies Act, 1956 (1 of 1956),

or any corporation established by or under any law for the time being in force in India or any co-operative society, with which the Regional Rural Bank has entered into, or proposes to enter into, any contract, loan, arrangement or proposal; or

(ii) a director of the Regional Rural Bank as such.

15. *Committees of Board.*—The Board may constitute such committees, whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons, as it may think fit, for such purposes as it may decide.

16. *Fees and allowances of directors and members of committees.*—(1) Every director and every member of a committee (other than the Chairman) shall be paid such fees and allowances as may be determined by the Central Government:

Proivded that no fees shall be paid to any director, or member of a committee if he is an officer of the Central Government, State Government, the Reserve Bank, Sponsor Bank or any other bank.

(2) The allowances payable to a director or a member of a committee, who is an officer of the Central Government, State Government, Reserve Bank, Sponsor Bank or any other bank, shall be paid by the Government or bank by which such officer is employed; and the allowances and fees payable to any other director or member of a committee shall be payable by the concerned Regional Rural Bank.

17. *Staff of Regional Rural Banks.*—(1) A Regional Rural Bank may appoint such number of officers and other employees as it may consider necessary or desirable for the efficient performance of its functions and may determine the terms and conditions of their appointment and service:

Provided that, it shall be lawful for a Sponsor Bank, if requested so to do by a Regional Rural Bank sponsored by it, to send during the first five years of the functioning of a Regional Rural Bank, such number of officers or other employees on deputation to the Regional Rural Bank as may be necessary or desirable

Provided further that the renumeration of officers and other employees appointed by a Regional Rural Bank shall be such as may be determined by the Central Government, and, in determining such remuneration, the Central Government shall have due regard to the salary structure of the employees of the State Government and the local authorities of comparable level and status in the notified area.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or any other law for the time being in force, no award, judgment, decree, decision or order of any industrial tribunal, court or other authority, made before the commencement of this Act, shall apply to the terms and conditions in relation to the persons appointed by a Regional Rural Bank.

(3) The officers and other employees of a Regional Rural Bank shall exercise such powers and perform such duties as may be entrusted or delegated to them by the Board

## CHAPTER IV

### BUSINESS OF A REGIONAL RURAL BANK

18. *Business which a Regional Rural Bank may transact.*— (1) Every Regional Rural Bank shall carry on and transact the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), and may engage in one or more forms of business specified in sub-section (1) of section 6 of that Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), every Regional Rural Bank may, in particular, undertake the following types of business, namely :—

(*a*) the granting of loans and advances, particularly small and marginal farmers and agricultural labourers, whether individually or in groups, and to co-operative societies, including agricultural marketing societies, agricultural processing societies, co-operative farming societies, primary agricultural credit societies or farmers' service societies, for agricultural pur-

poses or agricultural operations or for other purposes connected therewith ;

(b) the granting of loans and advances, particularly to artisans, small entrepreneurs and persons of small means engaged in trade, commerce or industry or other productive activities, within the notified area in relation to the Regional Rural Bank.

## CHAPTER V

### ACCOUNTS AND AUDIT

19. *Closure of accounts.*—(1) Every Regional Rural Bank shall cause its books to be closed and balanced as on the 31st day of December of each year and shall appoint with the approval of the Central Government auditors for the audit of its accounts.

(2) Every auditor of a Regional Rural Bank shall be a person who is qualified to act as an auditor of a company under section 226 of the Companies Act, 1956 (1 of 1956), and shall receive such remuneration as the Regional Rural Bank may fix with the approval of the Central Government.

(3) Every auditor shall be supplied with a copy of the annual balance-sheet and profit and loss account of the Regional Rural Bank, and a list of all books kept by the Regional Rural Bank, and it shall be the duty of the auditor to examine the balance-sheet and vouchers relating thereto, and, in the performance of his duties, the auditor—

(a) shall have, at all reasonable times, access to the books, accounts and other documents of the Regional Rural Bank ;

(b) may, at the expense of the Regional Rural Bank, employ accountants or other persons to assist him in investigating such accounts ; and

(c) may, in relation to such accounts, examine the Chairman or any officer or employee of the Regional Rural Bank.

(4) Every auditor of a Regional Rural Bank shall make a report to that bank upon the annual balance-sheet and accounts and in every such report shall state,—

(*a*) whether, in his opinion, the balance-sheet is a full and fair balance-sheet containing all necessary particulars and is properly drawn up so as to exhibit a true and fair view of the affairs of the Regional Rural Bank, and, in case he had called for any explanation or information, whether it has been given and whether it is satisfactory;

(*b*) whether or not, the transactions of the Regional Rural Bank, which have come to his notice, have been within the powers of that bank;

(*c*) whether or not, the returns received from the offices and branches of the Regional Rural Bank have been found adequate for the purpose of his audit;

(*d*) whether the profit and loss account shows a true balance of profit or loss for the period covered by such accounts; and

(*e*) any other matter which he considers should be brought to the notice of the Regional Rural Bank.

20. *Annual report to be furnished to the share-holders.*— Every Regional Rural Bank shall, within sixty days from the date of closure of its accounting year, send to each of its share-holders a report as to its working and activities during the accounting year immediately preceding together with a copy of its balance-sheet, profit and loss account and the auditor's report in relation to the accounts of the said accounting year.

21. *Disposal of profits.*—After making provisions for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and all other matters for which provision is, under law, necessary or which are usually provided for by banking companies, a Regional Rural Bank may, out of its net profits, declare a dividend.

22. *Regional Rural Bank to be deemed to be a co-operative society for purpose of the Income-tax Act,* 1961.—For the pur-

pose of the Income-tax Act, 1961 (43 of 1961), or any other enactment for the time being in force relating to any tax on income, profits or gains, a Regional Rural Bank shall be deemed to be a co-operative society.

23. *Interest-tax not payable.*—Notwithstanding anything contained in the Interest-tax Act, 1974 (45 of 1974,) no Regional Rural Bank shall be liable to pay any tax under that Act.

## CHAPTER—VI

### MISCELLANEOUS

24. *Power of Central Government to give directions.*—(1) A Regional Rural Bank shall, in the discharge of its functions, be guided by such directions in regard to matters of policy involving public interest as the Central Government may, after consultation with the Reserve Bank, give.

(2) If any question arises as to whether any such direction relates to a matter of policy invovling public interest, the decision of the Central Government thereon shall be final.

25. *Obligations as to fidelity and secrecy.*—(1) A Regional Rural Bank shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, it shall not divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is,in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the Regional Rural Bank to divulge.

(2) Every director, member of a committee or auditor, officer or other employee of a Regional Rural Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule to this Act.

26. *Bar to liquidation of Regional Rural Bank.*—No provision of law relating to the winding up of companies shall apply to a Regional Rural Bank and a Regional Rural Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

27. *Defects in appointment or constitution not to invalidate acts or proceedings.*—(1) No act of a Chairman, acting in good faiths, shall be invalid merely by reason of any defect in his appointment or in the procedure.

(2) No act or proceeding of any Board of directors or of any committee of a Regional Rural Bank shall be invalid merely on the ground of the existence of any vacancy in, or defect in the constitution of, such Board or committee, as the case may be.

(3) Acts done by a person, acting in good faith, as a director or member of a committee of a Regional Rural Bank shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in any law for the time being in force:

Provided that nothing in this section shall be deemed to give validity to any act done by a director or a member of any committee of a Regional Rural Bank after his appointment has been shown to the Regional Rural Bank to be invalid or to have terminated.

28. *Indemnity of directors, etc.*—(1) A director or a member of a committee of a Regional Rural Bank shall not be responsible for any loss or expense caused to such bank by insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of a Regional Rural Bank or by the insolvency or wrongful act of any customer or debtor or anything done in, or in relation to, the execution of the duties of his office, unless such loss, insufficiency or deficiency was due to any wilful act or default on the part of such director or member.

(2) The Chairman of a Regional Rural Bank and every officer of the Central Government or State Government or an officer of the Reserve Bank or the Sponsor Bank and every officer or other employee of a Regional Rural Bank shall be indemnified by such bank against all losses and expenses incur-

red by him in, or in relation to, the discharge of his duties except such as have been caused by his own wilful act or default.

29. *Power to make rules.*—(1) The Central Government may, after consultation with the Reserve Bank and the Sponsor Bank, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which the additional number of members of the Board may be filled in, under sub-section (2) of section 9;

(*b*) the time and place at which the Board of directors of a Regional Rural Bank shall meet and the rules of procedure which shall be observed by the Board in regard to the transaction of business at its meetings under sub-section (1) of section 14;

(*c*) any other matter which is required to be or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. *Power to make regulations.*—The Board of directors of a Regional Rural Bank may, after consultation with the Sponsor Bank and the Reserve Bank, and with the previous sanction of

the Central Government, make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

31. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act the Central Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

Provided that no such order shall be made after the expiry of a period of five years from the commencement of this Act.

32. *Act to override the provisions of other laws.*—The provisions of this ctA shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, express or implied, or in any instrument having effect by virtue of any law other than this Act, and notwithstanding any custom or usage to the contrary.

## CHAPTER—VII

### AMENDMENT OF CERTAIN ENACTMENTS

33. *Amendment of certain enactments.*—(1) In the Reserve Bank of India Act, 1934, (2 of 1934)—

(*a*) in section 2,—

(i) after clause (*civ*), the following clause shall be inserted, namely:—

'(*cv*) "Regional Rural Bank" means a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976;';

(ii) after clause (*e*), the following clause shall be inserted, namely:—

'(*ea*) "Sponsor Bank" means a Sponsor Bank as defined in the Regional Rural Banks Act, 1976;';

(iii) the existing clause (*ei*) shall be re-lettered as clause (*eb*)

(*b*) in section 45H, for the words "a co-operative bank", the words "a Regional Rural Bank or a co-operative bank" shall be substituted;

(*c*) in section 46A, in sub-section (2), in clause (*b*),—

(i) after the words "State co-operative banks", the words "or Regional Rural Banks" shall be inserted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that such loans and advances are fully guaranteed as to the repayment of principal and payment of interest,—

(i) in the case of loans and advances to State co-operative banks, by the State Government; and

(ii) in the case of loans and advances to a Regional Rural Bank, by the Sponsor Bank.";

(*d*) in section 46B, in sub-section (2),—

(i) after the words "State co-operative banks", the words "or Regional Rural Banks" shall be inserted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no such loans or advances shall be made—

(*a*) except for the purpose of enabling the Regional Rural Banks to pay any dues in respect of bills of exchange and promissory notes purchased or re-discounted by the Bank or loans and advances made to them by the Bank under section 17 and unless, in the opinion of the Bank, the Regional Rural Banks are unable to pay such dues in time owing to drought, famine or other natural calamities, and

(*b*) unless such loans and advances are fully guaranteed as to re-payment of the principal and payment of interest by the Sponsor Bank.".

(2) In the Industrial Disputes Act, 1947, (14 of 1947) in section 2, in clause (*a*), in sub-clause (i), after the words and

igures "Food Corporation Act, 1964, or", the words and figures 'a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, or" shall be inserted.

(3) In the Banking Regulation Act, 1949, (10 of 1949)—

(*a*) in section 24, after sub-section (2A), the following ub-section shall be inserted, namely:—

" (2B) The Reserve Bank may, by notification in the Official Gazette, vary the percentage referred to in sub-section (2A) in respect of a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976.";

(*b*) in section 34A, in sub-section (3), for the words "and any subsidiary bank", the words and figures "a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, and any subsidiary bank" shall be substituted;

(*c*) in section 36AD, in sub-section (3), for the words 'and any subsidiary bank", the words and figures "a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, and any subsidiary bank" shall be substituted;

(*d*) in section 51, for the words "or any other banking institution notified by the Central Government in this behalf", the words and figures "or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, or any other banking institution notified by the Central Government in this behalf" shall be substituted.

(4) In the Banking Companies (Legal Practitioners' Clients' Accounts) Act, 1949, (46 of 1949) in section 2, in clause (*a*), for the words "and any subsidiary bank", the words and figures "a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, and any subsidiary bank" shall be substituted.

(5) In the Deposit Insurance Corporation Act, 1961, (47 of 1961)—

(*a*) in section 2,—

(i) in clause (*g*),—

(*a*) for the words "a banking company", the words 'a Regional Rural Bank or a banking company" shall be substituted;

(*b*) for the words "with a banking company", the words "with a Regional Rural Bank or with a banking company" shall be substituted;

(ii) in clause (i), after the words "banking company", the words "or a Regional Rural Bank" shall be inserted;

(iii) after clause (*m*), the following clause shall be inserted, namely:—

'(*ma*) "Regional Rural Bank" means a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976;';

(*b*) after section 11 the following section shall be inserted, namely:—

"11A. *Registration of Regional Rural Banks.*—The Corporation shall register every Regional Rural Bank before the expiry of thirty days from the date of its establishment.";

(*c*) in section 13, after sub-section (2), the following sub-section shall inserted, namely:—

"(3) The provisions of clauses (*a*), (*b*), (*c*), (*d*) and (*h*) of sub-section (1) shall apply to a Regional Rural Bank as they apply to a banking company.";

(*d*) in sub-section (1) of section 14, for the words "banking company", wherever they occur, the words "banking company, Regional Rural Bank' shall be substituted.

34. *Repeal and savings.*—(1) The Regional Rural Banks Ordinance, 1975, (13 of 1975) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

## THE SCHEDULE

[*See* section 25 (2)]

I, ....., do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as a director, member of a committee, officer, employee or auditor (as the case may be) of the Regional Rural Bank and which properly relate to any office or position in the said Bank held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Regional Rural Bank or to the affairs of any person having any dealings with the Regional Rural Bank, nor will I allow any such person to inspector or have access to, any books or documents belonging to, or in the possession of the Regional Rural Bank and relating to the business of the Regional Rural Bank, or to the business of any person having any dealings with the Regional Rural Bank.

Signed before me

Dated

Signature.

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 31 LCA 76.

*Bangalore, dated 23rd April 1976.*

Ordered that the High Court Judges (Conditions of Service) Amendment Act, 1976 (Central Act No. 35 of 1976), published in Part II, Section 1 of the Gazette of India, Extraordinary, dated 19th March 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government.*
18 *Department of Law and Parliamentary Affairs.*

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

**(Legislative Department)**

*New Delhi, the 19th March, 1976/Phalguna 29, 1897 (Saka)*

The following Act of Parliament received the assent of the President on the 18th March, 1976, and is hereby published for general information :—

THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT ACT, 1976

No. 35 of 1976

[*18th March, 1976*]

An Act further to amend the High Court Judges (Conditions of Service) Act, 1954.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

**1. Short title and commencement.**—(1) This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1976.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 1st day of October, 1974.

2. **Amendment of section 15.**—In the High Court Judges (Conditions of Service) Act, 1954 (28 of 1954) (hereinafter referred to as the principal Act), section 15 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

"(2) Notwithstanding anything contained in sub-section ( ), any Judge to whom that sub-section applies and who is in service on or after the 1st day of October, 1974, may, if he has elected under the proviso to that sub-section to receive the pension payable to him under Part II or, as the case may be, Part III of the First Schedule before the date on which the High Court Judges (Conditions of Service) Amendment Act, 1976, receives the assent of the President, cancel such election and elect afresh to receive the pension payable to him under Part I of the First Schedule and any such Judge who dies before the date of such assent shall be deemed to have elected fresh to be governed by the provisions of the said Part I if the provisions of that Part are more favourable in his case."

3. **Amendment of section 17A.**—Section 17A of the principal Act shall be renumbered as sub-section (1) thereof and,—

(*a*) in sub-section (1) as so renumbered, after the words "the First Schedule", the words "retires, or" shall be, and shall be deemed always to have been, inserted ;

(*b*) after sub-section (1) as so amended, the following sub-sections shall be inserted, namely :—

(2) The rules, notifications and orders for the time being in force with respect to the grant of family pension in relation to an officer of the Central Civil Services, Class I, shall apply to the grant of family pension in relation to a Judge who, being in service on or after the 1st day of October, 1974, dies, whether before or after retirement, in circumstances to which section 17 does not apply.

(3) The rules, notifications and orders for the time being in force with respect to the grant of death-*cum*-retirement gratuity benefit to or in relation to an officer of the Central Civil Services, Class I (including the provisions relating to deductions from pension for the purpose) shall apply to or in relation to the grant of death-*cum*-retirement gratuity benefit to or in relation to a Judge who, being in service on or after the 1st day of October, 1974, retires, or dies in circumstances to which section 17 does not apply, subject to the modifications that—

(*i*) the minimum qualifying service for the purpose of entitlement to the gratuity shall be two years and six months;

(*ii*) the amount of gratuity shall be calculated on the basis of twenty days' salary for each completed year of service as a Judge ; and

(*iii*) the maximum amount of gratuity payable shall be thirty thousand rupees.

*Explanation.*—In sub-sections (2) and (3), the expression "Judge" has the same meaning as in section 14.

**4. Insertion of new sections 22A, 22B, and 22C.**—After section 22 of the principal Act, the following sections shall be inserted, namely:—

"**22A. Facility of rent-free houses.**—(1) Every Judge shall be entitled without payment of rent to the use of an official residence in accordance with such rules as may, from time to time. be made in this behalf.

(2) Where a Judge does not avail himself of the use of an official residence, he may be paid every month an allowance of an amount equal to twelve and a half per cent of his salary.

**22B. Conveyance allowance.**—Every Judge shall be entitled to a conveyance allowance of three hundred rupees per month subject to the maintenance of a motor car by him.

**22C. Sumptuary allowance.**—The Chief Justice of every High Court shall be entitled to a sumptuary allowance of three hundred rupees per mensem.

5. **Insertion of new section 23D.**—After section 23C of the principal Act, the following section shall be inserted, namely:—

"**23D. Medical facilities for retired Judges.**—(1) Every retired Judge shall, with effect from the date on which the High Court Judges (Conditions of Service) Amendment Act, 1976 receives the assent of the President, be entitled, for himself and his family, to the same facilities as respects medical treatment and on the same conditions as a retired officer of the Central Civil Services, Class I, and his family, are entitled under any rules and orders of the Central Government for the time being in force.

(2) Notwithstanding anything in sub-section (1) but subject to such conditions and restrictions as the Central Government may impose, a retired Judge of the High Court for a State may avail, for himself and his family, any facilities for medical treatment which the Government of that State may extend to him."

6. **Amendment of section 24.**—In section 24 of the principal Act,—

(*a*) in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

(*ca*) use of official residence by a Judge under sub-section (1) of section 22A,";

(b) for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament, while it is session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect

only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

**7. Amendment of the First Schedule.**—In the First Schedule to the principal Act,—

(1) in Part I, after paragraph 9, the following paragraph shall be inserted namely :—

"10. In the case of a Judge to whom this Part applies and who has retired on or after the 1st day of October, 1974, the foregoing provisions of this Part shall have effect subject to the modifications that—

(*i*) for paragraph 2, the following paragraph shall be substituted, namely :—

" 2. Subject to the other provisions of this Part, the pension payable to a Judge to whom this Part applies and who has completed not less than seven years of service for pension shall be—

(*a*) for service as Chief Justice in any High Court, Rs. 2400 per annum; and

(*b*) for service as any other Judge in any High Court, Rs. 1,600 per annum:

Provided that the pension shall in no case exceed Rs. 28,000 per annum in the case of a Chief Justice and Rs. 22,400 per annum in the case of any other Judge.";

(*ii*) paragraphs 3 to 5 shall be omitted;

(*iii*) in paragraph 6, for the word and figure "paragraph 5" the word and figure "paragraph 2" shall be substituted;

(*iv*) for paragraph 8, the following paragraph shall be substituted, namely: —

"8. Notwithstanding anything contained in the foregoing provisions of this Part, the pension payable to a Judge who has completed fourteen years of service for pension, including not less than six years of service as Chief Justice of one or more of the High Courts, shall be Rs. 28,000 per annum.":

(v) in paragraph 9, for the figures "6,000", the figures "8,400" shall be substituted.;

(2) in Part II, after paragraph 3, the following paragraph shall be inserted, namely:-

4. In the case of a Judge to whom this Part applies and who has retired on or after the 1st day of October, 1974, paragraph 3 shall have effect subject to the modifications that—

for the figures "1,333", "1,600", "1,866" "2,133", "2,400" and "2,666", the figures "1,866", "2,240", "2,612", "2,986", "3,360" and "3,733" shall respectively be substituted.';

(3) in Part III, after paragraph 2, the following paragraph shall be inserted, namely:—

'3. In the case of a Judge to whom this Part applies and who has retired on or after the 1st day of October, 1974, clause (b) of paragraph 2 shall have effect subject to the modifications that—

for the figures "500" and "2,500", the figures "700" and "3,500" shall respectively be substituted.'.

K. K. SUNDARAM,
*Secy. to the Govt. of India.*

## *CORRIGENDUM*

In the Smugglers and Foreign Exchange ] (Forfeiture of Property) Act, 1976, as published in the Gazette of India Extraordinary, Part II, Section 1, dated the 25th January, 1976, in page 101, *for* 2nd line, *read* "person affected shall be given a reasonable opportunity of being heard.".

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Blore.

# PART IV

## Section 1-B

## CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARI...

Notification No. LAW 20 LCA 76

*Bangalore, dated the 9th April 1976.*

Ordered that the Parliamentary Proceedings (Protection of Publication) Repeal Act, 1976 (No 28 of 1976) published in Part II, Section I of the *Gazette of India, Extraordinary* dated 12th February 1976 be re-published in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government,*
*Department of Law and Parly. Affairs.*

GOVERNMENT OF INDIA

**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

(Legislative Department)

*New Delhi, the 12th February, 1976/Magha* 23, 1897 (Saka)

The following Act of Parliament received the assent of the President on the 11th February, 1976, and is hereby published for general information :—

THE PARLIAMENTARY PROCEEDINGS (PROTECTION OF PUBLICATION) REPEAL ACT, 1976.

No. 28 OF 1976.

[11*th February*, 1976]

An Act to repeal the Parliamentary Proceedings (Protection of Publication) Act, 1956.

BE it enacted by Parliame... ... ... ... ... Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Parliamentary Proceedings (Protection of Publication) Repeal Act, 19--

(2) It shall be deemed to have come into force on the 8th day of December 1975

2. **Repeal of Act 24 of 1956 and saving.**—The Parliamentary Proceedings (Protection of Publication) Act, 1956, shall stand repealed :

Provided that such repeal shall not affect any proceedings, civil or criminal (whether pending immediately before the commencement of this Act or instituted or taken after such commencement) in respect of-

(*a*) any publication referred to in sub-section (1) of Section 3 of the said Act made before such commencement; or

(*b*) any report or matter broadcast before such commencement by the means referred to in section 4 of the said Act,

and accordingly any such proceedings shall be disposed of as if the said Act had continued in force and this Act had not been passed

3. **Repeal.**—The Parliamentary Proceedings (Protection of Publication) Repeal Ordinance, 1975, (25 of 1975) is hereby repealed.

K. K. SUNDARAM,
*Secretary to the Government of India.*

## GOVERNMENT OF KARNATAKA
## DEPARTMENT OF LAW AND PARLIAMENTARY AFFAIRS

*No. LAW 26 LCA 1976, Bangalore, dated 21st April 1976.*

### NOTIFICATION

Ordered that the Industrial Disputes (Amendment) Act, 1976 (Central Act No. 32 of 1976) published in Part II, Section I of the *Gazette of India*, Extraordinary, dated 16th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO

*Under Secretary to Government,*
*Dept. of Law and Parliamentary Affairs.*

Assented to on 16th February 1976, Act No. 32 of 1976.

## THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1976

AN

ACT

*further to amend the Industrial Disputes Act, 1947.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Industrial Disputes (Amendmest) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of Section 25A.*—In the Industrial Disputes, Act, 1974, (14 of 1974), (hereinafter referred to as the principal Act), in Section 25A, in sub-section (1), for the words "shall not apply—", the words, figures and letter "shall not apply to industrial establishments to which Chapter VB applies, or—" shall be substituted.

3. *Insertion of new Chapter VB.*—After Chapter VA of the principal Act, the following Chapter shall be inserted, namely :—

### CHAPTER VB

*Special provision Relating to lay-off, retrenchment and closure in certain establishments*

25K. *Application of Chapter VB.*—(1) The provisions of this

Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than three hundred workmen were employed on an average per working day for the preceding twelve months.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

25L. *Definitions.*—For the purposes of this Chapter,-

(*a*) "industrial establishment" means—

(*i*) a factory as defined in clause (*m*) of section 2 of the Factories Act, 1948, (63 of 1948) ;

(*ii*) a mine as defined in clause (j) of sub Section 2 of the Mints Act, 1952 (35 of 1952) ; or

(*iii*) a plantation as defined in clause (*f*) of section 3 of the Plantations Labour Act, (69 of 1951) ;

(*b*) notwithstanding anything contained in sub-clause (*ii*) of clause (*a*) of section 2,—

(i) in relation to any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or

(*ii*) in relation to any corporation [not being a corporation referred to in sub-clause (*i*) of clause (*a*) of Section 2] established by or under any law made by Parliament,

the Central Government shall be the appropriate Government.

25M. *Prohibition of lay-off.*—(1) No workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except with the previous permission of such authority as may be specified by the appropriate Government by notification in the Official Gazette, unless such lay-off is due to shortage of power or to natural calamity.

(2) Where the workmen (other than *badli* workmen or casual workmen) of an industrial establishment referred to in sub-section (1) have been laid-off before the commencement of the Industrial Disputes (Amendment) Act, 1976 and such lay-off continues at such commencement, the employer in relation to such establish-

ment shall, within a period of fifteen days from such commencement, apply to the authority specified under sub-section (1) for permission to continue the lay-off.

(3) In the case of every application for permission under sub-section (1) or sub-section (2), the authority to whom the application has been made may, after making such inquiry as he thinks fit, grant or refuse, for reasons to be recorded in writing, the permission applied for.

(4) Where an application for permission has been made under sub-section (1) or sub-section (2) and the authority to whom the application is made does not communicate the permission or the refusal to grant the permission to the employer within a period of two months from the date on which the application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of two months.

(5) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (2) has been made within the period specified therein, or where the permission for the lay-off or the continuance of the lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen have been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(6) The provisions of Section 25C (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

*Explanation.*—For the purposes of this section, a workman shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the workman) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the workman having regard to the facts and circumstances of his case, provided that the wages which would normally have been paid to the workman are offered for the alternative appointment also.

25N. *Conditions precedent to retrenchment of workmen.*—(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for

not less than one year under an employer shall be retrenched by that employer until,—

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

Provided that no such notice shall be necessary if the retrenchment is under an agreement, which specifies a date for termination of service;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette, and the permission of such Government or authority is obtained under sub-section (2).

(2) On receipt of a notice under clause (c) of sub-section (1) the appropriate Government or authority may, after making such inquiry as such Government or authority thinks fit, grant or refuse, for reasons to be recorded in writing, the permission for the retrenchment to which the notice relates.

(3) Where the Government or authority [illegible] the permission or the refusal to grant the permission to the employer within three months of the date of service of the notice under clause (c) of sub-section (1), the Government or authority shall be deemed to have granted permission for such retrenchment on the expiration of the said period of three months.

(4) Where at the commencement of the Industrial Disputes (Amendment) Act, 1976, the period of notice given under clause (a) of section 25F for the retrenchment of any workman has not expired, the employer shall not retrench the workman but shall, within a period of fifteen days from such commencement, apply to the appropriate Government or to the authority specified in sub-section (2) for permission for retrenchment.

(5) Where an application for permission has been made under sub-section (4) and the appropriate Government or the authority, as the cas emay be, does not communicate the permission or the refusal to grant the permission to the employer within a period of two monthh from the date on which the application is made, the

permission applied for shall be deemed to have been granted o the expiration of the said period of two months.

(6) Where no application for permission under clause (c) o sub-section (1) is made, or where no application for permissio under sub-section (4) is made within the period specified therein o where the permission for the retrenchment has been refused, suc retrenchment shall be deemed to be illegal from the date on whic the notice of retrenchment was given to the workman and the worl man shall be entitled to all the benefits under any law for the tim being in force as if no notice had been given to him.

(7) Where at the commencement of the Industrial Dispute (Amendment) Act, 1976, a dispute relating, either solely or i addition to other matters, to the retrenchment of any workman o workmen of industrial establishment to which this Chapter applie is pending before a conciliation officer or the Central Government o the State Government, as the case may be, and—

(*a*) there is an allegation that such retrenchment is by wa of victimisation ; or

(*b*) the appropriate Government is of the opinion that suc retrenchment is not in the interests of the maintenance of industria peace,

the appropriate Government, if satisfied that it is necessary so t do, may, by order, withdraw such dispute or, as the case may be such dispute in so far as it relates to such retrenchment and transfe the same to an authority (being an authority specified by th appropriate Government by notification in the Official Gazette) fo consideration whether such retrenchment is justified and any orde passed by such authority shall be final and binding on the employe and the workman or workmen.

25-O. *Ninety days' notice to be given of intention to clos down any undertaking.*—(1) An employer who intends to close dow an undertaking of an industrial establishment to which this Chapter applies shall serve, for previous approval at least ninet days before the date on which the intended closure is to becom effective, a notice, in the prescribed manner, on the appropriat Government stating clearly the reasons for the intended closur of the undertaking :

Provided that nothing in this section shall apply to an under taking set up for the construction of buildings, bridges, roads canals, dams or for other construction work.

(2) On receipt of a notice under sub-section (1) the appro priate Government may, if it is satisfied that the reasons for the

intended closure of the undertaking are not adequate and sufficien or such closure is prejudicial to the public interest, by order, direc the employer not to close down such undertakin.

(3) Where a notice has been served on the appropriat Government by an employer under sub-section (1) of section 25-FF/ and the period of notice has not expired at the commencement o the Industrial Disputes (Amendment) Act, 1976, such employe shall not close down the undertaking but shall, within a perio of fifteen days from such commencement, apply to the appropriat Government for permission to close down the undertaking.

(4) Where an application for permission has been made unde sub-section (3) and the appropriate Government does not communi cate the permission or the refusal to grant the permission to th employer within a period of two months from the date on whic the application is made the permission applied for shall be deeme to have been granted on the expiration of the said period of tw months.

(5) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-sectio (3) is made within the period specified therein or where th permission for closure has been refused, the closure of the under taking shall be deemed to be illegal from the date of closure an the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(6) Notwithstanding anything contained in sub-section (1) and sub-section (3), the appropriate Government may, if it i satisfied that owing to such exceptional circumstances as acciden in the undertaking or death of the employer or the like it i necessary so to do, by order, direct that the provisions of sub section (1) or sub-section (3) shall not apply in relation to suc undertaking for such period as may be specified in the order.

(7) Where an undertaking is approved or permitted to b closed down under sub-section (1) or sub-section (4), ever workman in the said undertaking who has been in continuous servic for not less than one year in that undertaking immediately befor the date of application for permission under this section shall b entitled to notice and compensation as specified in section 25N a if the said workman had been retrenched under that section.

25P. *Special provision as to restarting of undertakings close down before commencement of the Industrial Disputes (Amend ment) Act,* 1976.—If the appropriate Government is of opinion i respect of any undertaking of an industrial establishment to whic

this Chapter applies and which closed down before the commencement of the Industrial Disputes (Amendment) Act, 1976,—

(*a*) that such undertaking was closed down otherwise than on account of unavoidable circumstances beyond the control of the employer;

(*b*) that there are possibilities of restarting the undertaking;

(*c*) that it is necessary for the rehabilitation of the workmen employed in such undertaking before its closure or for the maintenance of supplies and services essential to the life of the community to restart the undertaking or both; and

(*d*) that the restarting of the undertaking will not result in hardship to the employer in relation to the undertaking,

it may, after giving an opportunity to such employer and workmen, direct, by order published in the Official Gazette, that the undertaking shall be restarted within such time (not being less than one month from the date of the order) as may be specified in the order.

25Q. *Penalty for lay-off and retrenchment without previous permission.*—Any employer who contravenes the provisions of section 25M or clause (*c*) of sub-section (1) or sub-section (4) of section 25N shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees or with both.

25-R. *Penalty for closure.*—(1) Any employer who closes down an undertaking without complying with the provisions of sub-section (1) of section 25-O shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees or with both.

(2) any employer, who contravenes a direction given under sub-secion (2) of section 25-O or section 25P, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and where the contravention is a continuing one, with a further fine which may extend to two thousand rupees for every day during which the contravention continues after the conviction.

(3) Any employer who contravenes the provisions of sub-section (3) of section 25-O shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees, or with both.

25S. *Certain provisions of Chapter VA to apply to an industrial establishment to which this Chapter applies.*—The provisions of

sections 25B, 25D, 25FF, 25G, 25H and 25J in Chapter VA shall, so far as may be, apply also in relation to an industrial establishment to which the provisions of this Chapter apply.

4. *Amendment of section* 33C.—In sub-section (1) of section 33C of the principle Act, for the word, figure and letter "Chapter VA", the words, figures and letters "Chapter VA or Chapter VB" shall be substituted.

5. *Amendment of section* 38.—In sub-section (5) of section 38 of the principal Act, for the words "two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

*Notification No. LAW 22 LCA 1976*

*Bangalore dated 21st April 1976*

Ordered that the Payment of Bonus (Amendment) Act, 1976 (Central Act No. 23 of 1976) Published in Part II, Section 1 of the Gazette of India, Extraordinary dated 14th February 1976 be republished in the *Karnataka Gazette* for general information.

**By Order and in the name of the Governor of Karnataka**

B. NAGESHA RAO

*Under Secretary to Government*

14 *Department of Law and Parliamentary Affairs.*

Assented to on 11th February 1976. Act No. 23 of 1976.

## THE PAYMENT OF BONUS (AMENDMENT) Act, 1976

AN ACT

*further to amend the Payment of Bonus Act, 1965*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Payment of Bonus (Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 25th day September, 1975.

2. *Amendment of long title.*—In the Payment of Bonus Act, 1965 (21 of 1965) (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:—

" An Act to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith ".

3. *Amendment of Section 1.*—In section 1 of the principal Act,—

(a) to sub-section (3), the following proviso shall be added, namely.—

" Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act with effect from such accounting year as may be specified in the notification, to any establishment or class of establishments [including an establishment being a factory within the meaning of sub-clause (ii) of clause (m) of

ction 2 of the Factories Act, 1948) (63 of 1948)] employing such number persons less than twenty as may be specified in the notification; so, owever, that the number of persons so specified shall in no case be less an ten. ";

(*b*) in sub-section (4), after the existing proviso, the following proviso all be inserted, namely:—

" Provided further that when the provisions of this Act have been ade applicable to any establishment or class of establishments by the ue of a notification under the proviso to sub-section (3), the reference the accounting year commencing on any day in the year 1964 and ery subsequent accounting year or, as the case may be, the reference the accounting year commencing on any day in the year 1968 and ery subsequent accounting year, shall, in relation to such establishent or class of establishments, be construed as a reference to the accountng year specified in such notification and every subsequent accounting ar. ";

(*c*) in sub-section (5).—

(i) the words, brackets, letter and figure " under clause (*b*) of subction (3) " shall be omitted;

(ii) the words, brackets and figure " or, as the case may be, the umber specified in the notification issued under the proviso to subction (3) " shall be added at the end.

4. *Amendment of section 2.*—In section 2 of the principal Act,—

(*a*) in clause (4).—

(i) in sub-clause (*a*), the brackets and words "(other than a anking company) " shall be omitted;

(ii) the words, brackets and figures " and includes any amount reated as such under sub-section (2) of section 34 " shall be omitted;

(*b*) in clause (8), after the words, brackets and figures " any subsidiary ank as defined in the State Bank of India (Subsidiary Banks) Act, 195 38 of 1959)", the words, brackets, figures and letter " any correspondin ew bank specified in the First Schedule to the Banking Companies (Acquisi ion and Transfer of Undertakings) Act, 1970(5 of 1970), any co-operativ ank as defined in clause (*bb*) of section 2 of the Reserve Bank of Indi ct, 1934 (2 of 1934)" shall be inserted.

5. *Substitution of new section for section 4.*—For section 4 of th rincipal Act, the following section shall be substituted, namely:—

*Computation of gross profits.*—" 4. The gross profits derived by a mployer from an establishment in respect of any accounting year shal e calculated in the manner specified in the First Schedule".

6. *Amendment of section 6.*—In section 6 of the principal Act, i clause (*d*) for the words " Third Schedule ", the words " Second Schedule hall be substituted.

7. *Substitution of new section for section 10.*—For section 10 of the principal Act, the following section shall be substituted, namely:—

*Amount of bonus.*—"10. (1) Subject to the other provisions of this Act, where an employer has any allocable surplus in any accounting year, then, he shall be bound to pay to every employee in respect of that accounting year. a minimum bonus which shall not be less than four per cent, of the salary or wage earned by the employee during the accounting year or one hundred rupees whichever is higher, or, in a case where the allocable surplus exceeds the said amount of minimum bonus payable to the employees, an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of twenty per cent, of such salary or wage;

Provided that where an employee has not completed fifteen years of age at the beginning of that accounting year, the provisions of this sub-section shall have effect in relation to such employee as if for the words "one hundred rupees", the words "sixty rupees" were substituted.

(2) Notwithstanding anything contained in sub-section(1), every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1974, a minimum bonus which shall be four per cent, of the salary or wage earned by the employee during that accounting year or one hundred rupees whichever is higher, whether or not the employer has any allocable surplus in that accounting year.

Provided that where an employee has not completed fifteen years of age at the beginning of that accounting year, the provisions of this sub-section shall have effect in relation to such employee as if for the words "one hundred rupees", the words "sixty rupees" were substituted

(3) For the purposes of this section, the allocable surplus shall be computed taking into account the amount set on or set off in the three immediately preceding accounting years and in the accounting year in respect of which the bonus is payable, in the manner illustrated in the Third Schedule".

8. *Omission of section* 11.—Section 11 of the principal Act shall be omitted.

9. *Amendment of Section* 12.—In section 12 of the principal Act, the words and figures "or, as the case may be, under section 11", shall be omitted.

10. *Substitution of new section for section* 13.—For section 13 of the principal Act, the follwing section shall be substituted, namely:—

*Proportionate deduction in bonus in certain cases.*—"13. Where an employee has not worked for all the working days in any accounting year the bonus payable to him under section 10 shall be proportionately reduced.".

11. *Substitution of new section for section* 15.—For section 15 of th principal Act, the following section shall be substituted, namely.—

*Set on and set off of allocable surplus.*—" 15. (1) Where for an accounting year, the allocable surplus exceeds the amount of bonu payable to the employees in the establishment under section 10, then, th excess shall, subject to a limit of twenty per cent, of the total salary c wage of the employees employed in the establishment in that accountin year, be carried forward for being set on in the succeeding accountin year and so on, to be utilised for the purpose of payment of bonus, in th manner illustrated in the Third Schedule.

(2) Where for any accounting year, there is no allocable surplus c the allocable surplus in respect of that year falls short of the amount c bonus payable to the e ployees in the establishment under section 1( and there is no sufficient amount carried forward and set on under sul section (1) which could be utilised for the purpose of payment of bonu then, so much amount as is necessary for the payment of bonus under thi Act shall be carried forward for being set off in the succeeding accountin year and so on, in the manner illustrated in the Third Schedule.

(3) The principle of set on and set off as illustrated in the Thir Schedule shall apply to all other cases not covered by sub-section (1) o sub-section(2) for the purpose of payment of bonus under this Act. ".

12. *Amendment of section* 16.—In section 16 of the principal Act,—

(*a*) for sub-section (1) and the *Explanations* thereto— the following sub-sections and *Explanations* shall be substituted, namely :—

"(1) Where an establishment is newly set up, whether before o after the commencement of this Act, the employees of such establish ment shall be entitled to be paid bonus under this Act in accordance witl the provisions of sub-sections (1*A*), (1*B*) and (1*C*).

(1*A*) In the first five accounting years following the accounting year in which the employer sells the goods produced or manufacture by him or renders services, as the case may be, from such establishmen bonus shall be payable only in respect of the accounting year in which the employer derives profit from such establishment and such bonu shall be calcuated in accordance with the provisions of this Act in relation to that year, but without applying the provisions of section 15.

(1*B*) For the sixth and seventh accounting years following the account- ing year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 15 shall apply subject to the following modifi- cations, namely :—

(*i*) for the sixth accounting year-

set on or set off, as the case may be, shall be made in the manner illustrated in the Third Schedule taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth and sixth accounting years ;

(*ii*) for the seventh accounting year—

set on or set off, as the case may be, shall be made in the manner illustrated in the Third Schedule taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth, sixth and seventh accounting years.

(1*C*) From the eighth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 15 shall apply in relation to such establishment they apply in relation to any other establishment.

*Explanation I.*—For the purpose of sub-section (1), an establishment shall not be deemed to be newly set up merely by reason of a change in its location, management, name or ownership.

*Explanation II.*—For the purpose of sub-section (1*A*), an employer shall not be deemed to have derived profit in any accounting year unless

(*a*) he has made provision for that year's depreciation to which he is entitled under the Income-tax Act or, as the case may be, under the agricultural income-tax law; and

(*b*) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits.

*Explanation III.*—For the purposes of sub-sections (1*A*), (1*B*) and (1*C*), sale of the goods produced or manufactured during the course of the trial running of any factory or of the prospecting stage of any mine or an oil-field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the decision of the appropriate Government, made after giving the parties a reasonable opportunity of representing the case, shall be final and shall not be called in question by any court or other authority.";

(*b*) in sub-section (2) for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letters "sub-sections (*1*), (1*A*), (1*B*), and (1*C*)" shall be substituted.

13. *Amendment of section* 19.—In section 19 of principal Act,—

(*a*) in sub-section (1), for the brackets, figure and words "(1) Subject to the provisions of this section, all amounts", the words "All amounts" shall be substituted;

(*b*) sub-sections (2) to (7) shall be omitted.

14. *Amendment of section* 20.—In section 20 of the principal Act,—

(*a*) in sub-section (1), the brackets and figure "(1)" shall be omitted;

(*b*) sub-section (2) shall be omitted.

15. *Amendment of section* 21.—In section 21 of the principal Act, in the *Explanation*, the figures "24", shall be omitted.

16. *Amendment of section* 23.—In section 23 of the principal Act, in sub-section (1), for the words and figures "and in sections 24 and 25", the words and figures "and in section 25" shall be substituted.

17. *Omission of section* 24.—Section 24 of the principal Act shall be omitted.

18. *Amendment of section* 27.—In section 27 of the principal Act, sub-section (5) shall be omitted.

19. *Insertion of new section* 31A.—After section 31 of the principal Act, the following section shall be inserted, namely :—

*Special provision with respect to payment of bonus linked with production or productivity.*—"31A. Notwithstanding anything contained in this Act,—

(i) where an agreement or a settlement has been entered into by the employees with their employer before the commencement of the Payment of Bonus (Amendment) Act, 1976, or

(ii) where the employees enter into any agreement or settlement with their employer after such commencement,

for payment of an annual bouns linked with production or productivity in lieu of bonus based on profits payable under this Act, then, such employees shall be entitiled to receive bouns due to them under such agreement or settlement, as the case may be :

Provided that such employees shall not be entitled to be paid such bonus in excess of twenty per cent, of the salary or wage earned by them during the relevant accounting year."

20. *Amendment of section* 32.—In section 32 of the principal Act,—

(*a*) for clause (*vii*), the following clause shall be substituted, namely :—

"(vii) employees employed by a banking company ; "

(*b*) in clause (ix) —

(*i*) after sub-clause (*f*), the following sub-clause shall be inserted, namely:—

"(*ff*) the Industrial Reconstruction Corporation of India; "

(*ii*) in sub-clause (*g*) the brackets and words "(other than a banking company )" shall be omitted ;

(c) clause (x) shall be omitted.

21. *Omission of section* 33.—Section 33 of the principal Act shall be omitted.

22. *Substitution of new section for section* 34.—For section 34 of the principal Act, the following section shall be substituted, namely:—

*Effect of laws and agreements inconsistent with the Act.*—" 34. Subject to the provisions of section 31A, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any

other law for the time being in force or in the terms of any award, agreement, settlement or contract of service ".

23. *Omission of section* 37.—Section 37 of the principal Act shall be omitted.

24. *Amendment of section* 38.—In section 38 of the principal Act, in sub-section (3).—

(*a*) for the words " or in two successive sessions", the words " or in two or more successive sessions " shall be substituted ;

(*b*) for the words " in which it is so laid or the session immediately following ", the words " immediately following the session or the successive sessions aforesaid " shall be substituted.

25. *Omission of the First Schedule.*—The First Schedule to the principa Act, shall be omitted.

26. *Amendment of the Second Schedule.*—In the Second Schedule t the principal Act.—

(*a*) for the heading " THE SECOND SCHEDULE ", the heading " THE FIRST SCHEDULE " shall be substituted ;

(*b*) for the sub-heading "(*See* section 4(*b*)", the sub-heading "(*See* section 4)" shall be substituted ;

(*c*) in Item 3, after sub-item (*a*), the following sub-item shall b inserted, namely:—

"(*aa*) The amount debited in respect of gratuity paid or payabl to emplyees in excess of the aggregate of—

(i) the amount, if any, paid to, or provided for payment to, a approved gratuity fund ; and

(ii) the amount actually paid to employees on their retiremer or on termination of their employment for any reasons.";

(*d*) in Item 6, for sub-item (*g*), the following sub-item shall l substituted, namely:—

" (*g*) Cash subsidy, if any, given by the Government or by an body corporate established by any law for the time being in force or b any other agency through budgetary grants, whether given directly o through any agency for specified purposes and the proceeds of which ar reserved for such purposes.";

(*e*) before the Foot-notes, the following *Explanation* shall be inserte namely.—

" *Explanation.*—In sub-item (*aa*) of Item 3, " approved gratuit fund " has the same meaning assigned to it in clause (5) of section 2 c the Income-tax Act ".

27. *Amendment of the Third Schedule.*—In the Third Schedule to the principal Act.—

(*a*) for the heading "THE THIRD SCHEDULE", the heading 'THE SECOND SCHEDULE" shall be substituted;

(*b*) in Item 1, in column (2), the words "other than a banking company" shall be omitted;

(*c*) Item 2 and the entries relating thereto shall be omitted;

(*d*) in the *Explanation*, the figures and brackets "2(iii)" shall be omitted.

28. *Substitution of new Schedule for the Fourth Schedule.*—For the Fourth Schedule to the principal Act, the following Schedule shall be substituted, namely.—

## THE THIRD SCHEDULE

(*See* Sections 10, 15 and 16,

The illustration in this Schedule has been worked out with reference to an establishment which has an annual salary or wage bill of rupees one lakh, twenty per cent of which amounts to Rs. 20,000 and four per cent of which amounts to Rs. 4,000.

| *Year* | *Amount equal to sixty per cent or sixty seven per cent as the case may be, of available surplus allocable as bonus* | *'Set on' or 'Set off' of the preceding year* | *Amount paid or payable as bonus* | *Balance of 'Set on' or 'Set off'* |
|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 |
| | Rs. | Rs. | Rs. | Rs. |
| 1. | 42,000 | +3,000(a) | 20,000 | + 23,000 |
| 2. | Nil | +23,000 | 20,000 | +3,000 |
| 3. | 10,000 | +3,000 | 13,000 | Nil |
| 4. | 10 | Nil | 4,000 | — 3,990 |
| 5. | 100 | —3,990 | Nil | — 3,890 |
| 6. | Nil | —3,890 | Nil | — 3,890 |
| 7. | 23,890 | —3,890 | 20,000 | Nil |
| 8. | Nil | Nil | Nil | Nil |
| 9. | 25,000 | Nil | 20, 00 | + 5,000 |
| 10. | 15,100 | +5,000 | 20,000 | + 100 |
| 11. | Nil | +100 | 4,000 | +3,900 |

NOTE.—1. The notation "+" denotes 'set on' and the notation "—" denotes 'set off'.

2. "(*a*) represents the amount 'set on' as calculated under the provisions of this Act as it stood immediately before the commencement of the Payment of Bonus (Amendment) Act, 1976.

29. *Amendment of Section 36 of the Income-tax Act* 1961.—In sub-section (1) of section 36 of the Income-tax Act, 1961 (43 of 1961), in the proviso to clause (ii), for the words "Provided that the amount of the bonus or commission", the words and brackets "Provided further that the amount of the bonus (not being bonus referred to in the first proviso) or commission" shall be substituted and before that proviso as so amended, the following proviso shall be inserted, namely.—

"Provided that the deduction in respect of bonus paid to an employee employed in a factory or other establishment to which the provisions of the Payment of Bonus Act, 1965 (21 of 1965) apply shall not exceed the amount of bonus payable under that Act."

30. *Saving.*—For the removal of doubts, it is hereby declared that notwithstanding the amendments made to the principal Act by this Act, the provisions of the principal Act as they stood from time to time before the commencement of this Act shall apply and continue to apply to and in relation to the payment of bonus in respect of any accounting year preceding the accounting year commencing on any day in the year 1974.

31. *Repeal and saving.*—(1) The Payment of Bonus (Amendment) Ordinance, 1975 (11 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended

Dated 21st April 1976

Ordered that the Levy Sugar Price Equalisation Fund Act, 1976 (Central Act No. 31 of 1976) published in Part II, Section I of the Gazette of India, Extraordinary dated 16th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO
*Under Secretary to Government,*
*Department of Law and Parliamentary Affairs.*

Assented to on 16-2-76 [illegible]t No. 31 of 1976

# THE LEVY SUGAR PRICE EQUALISATION FUND ACT 1976

AN ACT

*to provide for the establishment, in the interest of the general public, of a fund to ensure that the price of levy sugar may be uniform throughout India and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows.—

1. *Short title, extent and commencement.*—(1) This Act may be called the Levy Sugar Price Equalisation Fund Act, 1976.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires.—

(*a*) "controlled price" means the price of the relevant grade of levy sugar, determined from time to time under sub-section (3C) of section 3 of the Essential Commodities Act, 1955 (10 of 1955) or under the Defence and Internal Security of India Rules, 1971, in relation to any year of production;

(*b*) "excess realisation" in relation to each grade of levy sugar,—

(i) means the price realised by any producer, on the sale of levy sugar of such grade, in excess of—

(*a*) the controlled price, or

(*b*) Where any fair price has been fixed by a court for levy sugar of such grade, such fair price, and

(ii) includes any realisation representing the difference between the controlled price and the price allowed by the court by an interim order, if such interim order is set aside, whether by the court which made the order or in appeal or revision ;

(*c*) "fair price" in relation to levy sugar, means the price fixed by the court in excess of the controlled price, and where an interim price, fixed by the court, is superseded by a price which is finally fixed by the court, the price so finally fixed ;

(*d*) "Fund" means the Levy Sugar Price Equalisation Fund, established under Section 3 ;

(*e*) "levy sugar" has the meaning assigned to it in the Levy Sugar Supply (Control) order, 1972, published with the Order of the Government of India, in the late Ministry of Agriculture (Department of Food), No. GSR 310 (E), /Ess. Com./Sugar, dated 15th June, 1972 ;

(*f*) "Prescribed" means prescribed by rules made under this Act ;

(*g*) "producer" means a person carrying on the business of manufacturing sugar by the vaccum pan process.

3. *Levy Sugar Price Equalisalion Fund.*—(1) There shall be etsablished a Fund, to be called the Levy Sugar Price Equalisation Fund.

(2) Save as otherwise provided in sub-section (4), there shall be credited to the Fund, in such manner as may be prescribed,—

(*a*) the amounts representing all excess realisations made by the producers, irrespective of whether such excess realisations were made before or after the commencement of this Act ;

(*b*) the amounts representing any loans which may be advanced, or grants which may be made by the Central Government for carrying out the objects of the Fund.

(3) Save as otherwise provided in sub-section (4). every producer shall.—

(*a*) in the case of an excess realisation made before the commence ment of this Act, within thirty days from such commencement.

(*b*) in the case of an excess realisation made after such commencement, within thirty days from the date on which such excess realisation was made, credit to the Fund, the amount representing such excess realisations, together with interest due thereon at the rate of twelve and a half per cent. per annum, from the date on which such amount was realised by him.

(4) Where, by virtue of any interim order made by any court, whether before or after the commencement of this Act,—

(*a*) amounts representing the difference between the controlled price and price allowed by any court by an order made in this behalf, have been, or are required to be,—

(i) Kept with the producer himself, or

(ii) Kept deposited with, or in the custody of, any court, or

(iii) kept deposited with, or in the custody of, any Government, bank, authority or other person; or

(*b*) any amount in excess of the controlled price has been collected and kept by the producer under the cover of any guarantee given in pursuance of such order,

it shall not be necessary to credit such amounts to the Fund so long as the court which passed the interim order does not so direct.

(5) Where, in pursuance of an interim order referred to in sub-section (4) any amount representing the difference between the controlled price and the interim price allowed by the court is,—

(*a*) held by any producer either with himself or with any other person or with any court, Government, bank or other authority, or

(*b*) collected and kept by the producer under the cover of any guarantee,

such producer shall, on the final disposal of the proceedings of the court aforesaid, or in any court of appeal or revision, credit such amount, to the extent it represents any excess realisation, to the Fund.

(6) For the removal of doubts, it is hereby declared that the obligation to credit amounts representing excess realisations to the Fund shall be in addition to any penalty which may be imposed for the contravention of any provision of this Act.

(7) The Fund shall be administered, subject to the provisions of section 8, by the Central Government.

4. *Determination of questions as to making of excess realisations.*— If any question arises as to whether any producer has realised, on the sale of levy sugar, any amount in excess of the controlled price, or as the case may be, the fair price, it shall be decided by the Central Government after giving an opportunity to such producer of being heard and after making such inquiry as that Government may deem fit.

5. *Discharge of persons of liability in respect of amounts credited to the Fund.*—Where any amount is credited to the Fund under section 3, the producer by whom such amount is credited shall, upon such crediting, be discharged from the liability to make repayment of such amounts to the persons entitled thereto and such discharge from liability to make repayment shall be without any prejudice to any penalty which may be imposed on such producer for each excess realisation made by him.

6. *Right of buyer to claim refund* :—(1). Where any amount is credited to the Fund, a refund shall be made from the Fund to the buyer of levy sugar from whom any excess realisation was made by the producer or dealer :

Provided that no buyer shall be entitled to claim a refund under this sub-section if he,—

(a) being a wholesale dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the retail dealer by whom the price of such sugar was paid, or

(b) being a retail dealer, had passed on the incidence of such excess over the controlled or fair price of levy sugar to the consumer by whom the price of such sugar was paid.

(2) Every application for refund under sub-section (1) shall be made to the Central Government within six months from the date on which the excess realisation in relation to which such refund is claimed, is credited to the Fund and every such application shall be in such form as may be prescribed and shall be accompanied by such documentary or other evidence as the applicant may furnish to establish that the excess realisation, in relation to which such refund is claimed, was made from him.

(3) The Central Government shall if satisfied on a scrutiny of the claim made under sub-section (1), that an excess realisation was made from the claimant, direct that refund be made from the Fund to the claimant to the extent of the excess realisation made from him :

Provided that if the amount standing to the credit of the Fund is not sufficient to enable the Central Government to make the refund, such refund shall be made from the Central revenues.

7. *Excess realisation not to be paid to any producer of sugar.*—Notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, no amount, representing excess realisations made by a producer or excess realisations made by a producer under the cover of any guarantee given by any person shall be paid to any Producer.

8. *Fund to vest in the Central Government.* (1) Any money paid into the Fund which remains unclaimed after the expiry of the period of six months from the date on which it is credited to the Fund, shall vest in the Central Government and such amount shall be utilised by that Govt. in such manner as may be prescribed having regard to the interest of the consumers of levy sugar as a class and the need to ensure that the retail price of levy sugar throughout India is uniform :

Provided that, notwithstanding the vesting of such money in the Central Government, a claim for the refund of money standing to the credit of the Fund may be made [in the manner specified in sub-section (2) of section 6] at any time by a buyer who is lawfully entitled to make such claim, and every such claim, if admitted, shall be dealt with as if the money relatable to such claim had not vested in the Central Government.

(2) The Central Government shall not grant any loan or given any financial assistance from the Fund except for the purposes of this Act.

(3) The Central Government shall maintain, or if it thinks fit specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be Prescribed in consulatation with the Comptroller and Auditor General of Indi

9. *Power to require Producers to maintain accounts etc.*; he Central Government may, if it is satisfied that it is expedient : necessary so to do for carrying out the provisions of this Act, by an :der, direct any producer to maintain such books of account and other :cords in relation to levy sugar as it may think fit and to produce such ooks of account and other records for inspection and may also direct such roducer to furnish such information relating to levy sugar as may bo pecified in the order.

0. (1) *Power of entry, search and seizure.* (1)Any authority specified by the entral Government in this behalf may, if it is satisfied that any provision f this act has been or is being or is about to be, contravened, authorise ny person to enter and search any premises where any accounts, books, egisters and other documents relating to levy sugar and belonging to, or nder the control of, a producer or his agent, are maintained or kept for afe custody.

(2) The person so authorised may seize any such accounts, books, egisters or other documents if he has any reason to belive that a contra- ention of this Act has been, or is being or is about to be, committed :

Provided that the accounts, books, registers or other documents seized nder this section shall not be retained in custody of the Central Govern- ent for a period exceeding ninety days :

Provided further that where such accounts, books, registers nd other documents are required for the purposes of any prosecution, hey may be retained in the custody of the Central Government for a rther period, not exceeding ninety days, for the purposes of such pro- ecution. (2 of 1974.)

(3) The provisions of the Code of Criminal Procedure, 1973 , relating o searches and seizures, shall so far as may be, apply to searches and eizures made under this Act.

11. *Power of Central Government to recover excess realisations as arrears f land revenue.*—If any producer makes any default in crediting to the und any excess realisations made by him or any part thereof, uch excess realisations or such part as the case may be shall be recoverable y the Central Government from such producer as an arrear of land revenue.

12. *Dissolution of the Fund.*—The Central Government may, by otification in the Official Gazettee, declare that, with effect from such ate as may be specified in the notification, the Fund , shall ease to exist and thereupon all the amounts lying to the credit of the und shall be credited to the Central revenues and refund, if any, made, y the Central Government, after such cesser, to any buyer of levy ugar shall be treated as an order for

13. (1) If any producer—

(a) makes any default in credi ations made by him or any part thereof, or

(b) having been required by the Central Government so to do, mits or fails to—

(i) maintain any books, accounts or other records in relation to levy sugar or

(ii) produce any books, accounts or other records for inspection, or

(iii) furnish any information or furnishes any information which is incorrect or false in material particulars,

he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

(2) No court shall take cognizance of any offence punishable under this Act except on the complaint in writing made by the Central Government or by any Officer or authority authorized, in writing by that Government in this behalf.

14. *Removal of difficulties.* If any difficulty arises in giving effect to any provision of this Act, the Central Government may make such order not inconsistent with the provisions of this Act, as may appear to it to be necessary to remove the difficulty.

15. *Protection of action taken in good faith.* No suit, prosecution or other legal proceedings shall lie against the Central Government or any person authorised by the Central Government for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

16. *Power to make rules.* (1) The Central Government may make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which amounts shall be credited to the Fund under section 3 ;

(b) the form in which an application for refund, referred to in section 6, shall be made ;

(c) the manner in which amounts standing to the credit of the Fund shall be utilised, as required by section 8 ;

(d) the form in which the account and the relevant records, referred to in sub section (3) of section 8, shall be maintained ;

(e) any other matter in relation to which such rules are required to be, or may be, made.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

LAW AND PARLIAMENTARY AFFAIRS SECRI

No. LAW 18 LCA 1976.

*Bangalore, dated the 9th April 1976.*

NOTIFICATION

Ordered that the prevention of publication of objectionable Matter Act, 1976 (27 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 12th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government,*
7 *Department of Law and Parliamentary Affairs.*

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

*New Delhi, the 12th February, 1976/Magha 23, 1897 (Saka)*

The following Act of Parliament received the assent of the President on the 11th February, 1976, and is hereby published for general information :—

## THE PREVENTION OF PUBLICATION OF OBJECTIONABLE MATTER ACT, 1976

No. 27 OF 1976

[*11th February* 1976.]

An Act to provide against the printing and publication of incitement to crime and other objectionable matter.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows

### CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Prevention of Publication of objectionable Matter Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 8th day of December, 1975.

2. **Definitions and Construction.**—(1) In this Act unless the context otherwise requires.—

(a) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed, lithographed or otherwise mechanically produced;

(b) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974).

(c) 'competent authority" means a competent authority appointed under section 4;

(d) "document" includes also any painting, drawing or photograph or other visible representation;

(e) "newspaper" means any periodical work containing public news or comments on public news;

(f) 'news-sheet" means any document other than a newspaper containing public news or comments on public news;

(g) 'press" means a printing press, and includes all plant, machinery, duplicators, types, implements and other materials used for the purpose of, or in connection with, printing or multiplying documents;

(h) 'Press Registration Act', means the Press and Registration of Books Act, 1867 (25 of 1867);

(i) 'State Government", in relation to a Union territory, means the administrator thereof appointed under article 239 of the Constitution;

(j) "unauthorised newspaper" means—

(i) any newspaper in respect of which security has been required under this Act but has not been furnished as required, or

(ii) any newspaper which is published without conforming to the rules laid down in section 5 of the Press Registration Act;

(k) "unauthorised news-sheet" means any newssheet in respect of which security has been required from the

frompublisher thereof under this Act but has not been furnishedas required or any news-sheet which does not contain the name of the printer and the publisher;

(l) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press Registration Act;

(m) any expression used but not defined in this Act shall,—

(i) if such expression is defined in the Code, have the same meaning as in the Code; and

(ii) if such expression is not defined in the Code but defined in the Indian Penal Code, (45 of 1860) have the same meaning as in the Indian Penal Code.

(2) For the purposes of this Act, where different editions of the same newspaper or news-sheet are published each such edition shall be deemed to be a separate newspaper or news-sheet.

(3) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as reference to the corresponding law, if any, in force in that area.

(4) Any reference in this Act to any officer or authority shall, in relation to any area in which there is no officer or authority with the same designation, be construed as reference to such officer or authority as may be specified by the Central Government by notification in the Official Gazette.

3. **"Objectionable matter" defined.**—In this Act, the expression "objectionable matter" means any words, signs or visible representations—

(a) which are likely to—

(i) bring into hatred or contempt, or excite disaffection towards, the Government established by law in India or in any State thereof and thereby cause or tend to cause public disorder; or

(ii) incite any person to interfere with the production, supply or distribution of food or other essential commodities or with essential services; or

(*iii*) seduce any member of the Armed Forces or the Forces charged with the maintenance of public order from his allegiance or his duty or prejudice the recruiting of persons to serve in any such Force or prejudice the discipline of any such Force; or

(*iv*) promote disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities; or

(*v*) cause fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or

(*vi*) incite any person or any class or community of persons to commit murder, mischief or any other offence; or

(*b*) which-

(*i*) are defamatory of the President of India, the Vice-President of India, the Prime Minister or the Speaker of the House of the People or the Governor of a State; or

(*ii*) are grossly indecent, or are scurrilous or obscence or intended for blackmail.

*Explanation I.*—Comments expressing disaprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means, and words pointing out, with a view to their removal by lawful means, matters which are producing or have a tendency to produce disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall not be deemed to be objectionable matter within the meaning of this section.

*Explanation II.*—In considering whether any matter is objectionable matter under this Act, the effect of the words, signs or visible representation, and not the intention of the keeper of the press or the publisher or editor of the newspaper or news sheet, as the case may be, shall be taken into account.

**4. Appointment of competent authorities.**—(1) The Central Government may, by notification in the Official

Gazette, appoint such officers (being officers of the Central Government, not below the rank of a Deputy Secretary to that Government, or officers of State Government or Administrations of Union territories not below the rank of a District Magistrate) as it deems fit to be competent authorities for the purposes of this Act and specify the local limits of their jurisdiction.

(2) An officer appointed under sub-section (1) may exercise the powers of a competent authority under this Act in relation to presses situated and newspapers and news-sheet published within the local limits of his jurisdiction, the keepers of such presses and the publishers and editors of such newspapers.

## CHAPTER II

### PROHIBITION OF PREJUDICIAL PUBLICATIONS

**5. Power to control prejudicial publications.**—The Central Government or the competent authority, if satisfied that such action is necessary for the purpose of prevennting or combating—

(a) any activity prejedicial to the interests of sovereignty and integrity of India, security of the State friendly relations with foreign States, public order, decency or morality; or

(b) any activity involving or likely to involve or culminate in incitement to offences,

may, by order in writing, addressed to the keeper of any press or any publisher or editor, prohibit the printing or publication in any document or any class of documents of any matter relating to a particular subject or class of subjects for a specified period (not exceeding two months from the date of communication of the order) or in a particular issue or issues of a newspaper or periodical.

(2) An order made under sub-section (1) shall not take effect unitill it is communicated to the person against whom it is made.

(3) When any order is made by the competent authority under sub-section (1) against any person, the competent authority shall forthwith report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter and the Central Government may if satisfied after making such inquiry, if any, as it may deem fit; that it is proper so to do, set aside such order or modify such order to the advantage of such person.

(4) Without prejudice to the provisions of sub-section (3), any person aggrieved by an order made under sub-section (1) may, within ten days of the commmunication of the order to him, make a representation to the Central Government and the Central Government may after making such inquiry as it may deem fit and after taking into account the action, if any, taken by it under sub-section (3) in respect of such order, dispose of the matter confirming, modifying or setting aside the order or, as the case may be, confirming such action :

Provided that if the person making the representation makes a request in his representation that he should be given an opportunity to be heard, the Central Government shall not dispose of the matter without giving to such person such opportunity.

(5) If within a period of seven days from the date of receipt of a representation under sub-section (4) the Central Government fails to confirm, modify or set aside the order against which the representation is made, the order shall, unless sooner set aside under sub-section (3), be deemed to have been set aside on the expiry of that period.

*Explanation.*—In computing the said period of seven days,—

(*a*) public holidays, that is to say, days on which the offices of the Central Government remain closed; and

(*b*) any time allowed to the person making the representation in compliance with his request to be heard and

(c) any period during which the representation could not to be disposed of by reason of any injunction or order of any court (including the day on which such injunction or order was issued or made and the day on which it was withdrawn),

shall be excluded.

**6. Forfeiture of publications made in contravention of orders under section 5.**—In the event of disobediance of an order made under section 5, the Central Government or the competent authority issuing the order may, without prejudice to any other penalty, to which the person guilty of the disobedience of the order is liable under this Act or under any other law for the time being in force, direct that copies of the publication made in disobedience of such order be seized. and that any printing press or other instrument or apparatus used in the publication be closed down for the period such order is in operation.

**7. Penalty for contravention of orders under section 5.**—Whoever contravenes, disobeys or neglects to comply with any order made under section 5 shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

## CHAPTER III

### PREVENTION OF PRINTING AND PUBLICATION OF OBJECTIONABLE MATTER

**8. Power to demand security from presses in certain cases.**—Whenever it appears to the competent authority that any press has been used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing objectionable matter, and that there are sufficient grounds for demanding security from the keeper of the press under this section, the competent authority shall, by order in writing, direct the keeper of the press to deposit as security, within twenty-

one days from the date of the order, such amount as the competent authority may think fit to require:

Provided that if, having regard to all the circumstances of the case, the competent authority is satisfied that the requirements of the case will be met by a warning, the competent authority may, instead of demanding security, record, by order in writing, such warning.

**9. Power to forfeit security or demand further security from presses** —Whenever it appears to the competent authority that any press in respect of which any security has been ordered to be deposited under section 8 or under this section is thereafter used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing objectionable matter, the competent authority shall, by order in writing, declare such security as has been deposited, or any portion thereof, to be forfeited to the Central Government or direct the keeper of the press to deposit, within twenty-one days from the date of the order, such further security as the competent authority may deem fit to require and may also, in either case, declare all copies of the newspaper, news-sheet, book or other document containing such objectionable matter, wherever found in India, to be forfeited to the Central Government.

**10. Consequences of failure to deposit security as required under section 8 or section 9** .—(1) Where the keeper of the press is required under section 8 or section 9 to deposit any amount as security and the deposit is not made within the time allowed.-

(*a*) the declaration made by the keeper of the press under the Press Registration Act shall be deemed to be annulled ; and

(*b*) notwithstanding anything contained in the Press Registration Act, neither the said keeper of the press nor any other person shall make or be allowed to make a fresh declaration before a Magistrate under that Act in respect of the press, unless the amount required to be deposited as security by the keeper of the press under section 8 or

section 9 is deposited by the keeper of the press or such other person ; and

(c) the press shall not be used for printing or publishing of any newspaper, news-sheet, book or other document until the deposit has been made.

(2) If any press is used in contravention of clause (c) of sub-section (1), any Judicial Magistrate may on a complaint made to him in this behalf by the competent authority direct the keeper of the press to show cause why it should not be foreited and after hearing him and on being satisfied that there are sufficient grounds for passing the order, declare the press or any part thereof to be foreited to the Central Government :

Provided that the press or any part thereof so foreited shall not be disposed of within a period of three months from the date of the order of forfeiture, and if the keeper of the press makes the required deposit within the aforesaid period, the press or the part thereof shall be returned to the keeper of the press.

**11 Power to demand security from publishers of newspapers and news sheets in certain cases.**—Whenever it appears to the competent authority that a newspaper or news-sheet contains any objectionable matter, and that there are sufficient grounds for demanding security in respect of the newspaper or news-sheet under this section, the competent authority shall, by order in writing, direct the publisher of the newspaper or news-sheet to deposit, within twenty-one days from the date of the order as security in respect of the newspaper or news-sheet such amount as the competent authority may think fit to require:

Provided that if, having regard to all the circumstances of the case, the competent authority is satisfied that the requirements of the case will be met by a warning, the competent authority may, instead of demanding security, record, by order in writing, such warning.

**12. Power to forfeit security or demand further security from publishers of news papers and news sheets:**—Whenever it appears to the competent authority that any

news-paper or news-sheet in respect of which any security has been ordered to be deposited by the publisher under section 11 or under this section thereafter publishes any objectionable matter, the competent authority shall, by order in writing, declare such security as has been deposited, or any portion thereof, to be forfeited to the Central Government or direct the publisher of the news-paper or news-sheet to deposit, within twenty-one days from the date of the order, such further security as the competent authority may deem fit to require and may also, in either case, declare all copies of the news-paper or news-sheet containing such objectionable matter, wherever found in India, to be forfeited to the Central Government.

**13. Consequences of failure by publisher to deposit security as required under section 11 or section 12:**—(1) Where the publisher of a news-paper is required under section 11 or section 12 to deposit any amount as security in respect of any news-paper and the deposit is not made within the time allowed,—

(a) the declaration made by the publisher of the newspaper under section 5 of the Press Registration Act shall be deemed to be annulled ; and

(b) notwithstanding anything contained in the Press Registration Act, neither the said publisher nor any other person shall make, or be allowed to make, a fresh declaration before a Magistrate under section 5 of that Act as publisher of that news paper or any other news paper which is the same in substance as that news-paper, unless the amount required to be deposited by the publisher of the news-paper under section 11 or section 12 is deposited by the said publisher or such other person.

(2) Where a deposit is required from the publisher of a news-paper or news-sheet under section 11 or section 12, no press shall, after the expiry of the time allowed to make the deposit, be used for the printing of such news-paper or news-sheet, until the deposit has been made.

(3) The keeper of any press who knowingly contravenes the provisions of sub-section (2) sehall be punishable

with imprisonment for a term which may extend to one year, or with fine, or with both, and where such keeper is convicted for a second or subsequent contravention of that sub-section in respect of the same news-paper or news-sheet, the court may also direct that the press or any part thereof shall be forfeited to the Central Government:

Provided that the press or part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture and, if the keeper of the press makes the required deposit within the aforesaid period, the press or the part thereof, as the case may be, shall be returned to the keeper of the press

**14. Power to demand security from editors of news-papers and news-sheets in certain cases.**—Whenever it appears to the competent authority that a news paper or news-sheet contains any objectionable matter and that there are sufficient grounds for demanding security from the editor of the newspaper or news-sheet under this section, the competent authority shall, by order in writing, direct the editor of the newspaper or news-sheet to deposit, within twenty-one days from the date of the order, such amount as the competent authority may think fit to require:

Provided that if, having regard to all the circumstances of the case, the competent authority is satisfied that the requirements of the case will be met by a warning to the editor, the competent authority may, instead of demanding security, record, by order in writing, such warning.

**15. Power to forfeit security or demand further security from editors of news-papers and news-sheets.**—Whenever it appears to the competent authority—

(a) that any news-paper or news-sheet containt any objectionable matter, and

(b) that the editor of such news-paper or news-sheet has been ordered to deposit security (whether as editor the same news paper or

news-sheet or of any other news-paper or news-sheet)under section 14 or this section,

—the competent authority shall, by order in writing, declare such security as has been deposited by such editor or any portion thereof to be forfeited to the Central Government or direct such editor to deposit, within twenty-one days from the date of the order, such further security as the competent authority may deem fit to require.

**16. Amount of security and manner of deposit.**—(1) The amount of security which may be required to be deposited under any of the foregoing sections of this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) The amount of security directed to be deposited under any of the foregoing sections of this Chapter shall be deposited in money or the equivalent thereof in Government securities in accordance with such order as the Central Government may, by notification in the Official Gazette, make, with such authority or agency as may be specified in such order.

(2) Every notification issued under sub-section (2) shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

**17. Procedure, etc , to be followed by the competent authority.**—(1) The competent authority shall not make any order under section 8, section 9, section 11, section 12

section 14 or section 15, unless he is satisfied, upon a complaint made to him in writing by the proper officer and inquiry made in the manner provided in this section, that it is necessary to make such order.

*Explanation.*—In this sub-section, "proper officer" means any officer empowered by the Central Government, by general or special order in writing, to make complaints under this section.

(2) Every complaint to the competent authority under sub-section (1) against any person (hereafter in this section referred to as the respondent) shall state or describe the objectionable matter in respect of which the complaint is made and, where it is desired that security should be demanded from the respondent, shall specify the amount of security which, in the opinion of the officer making the complaint, should be so demanded.

(3) On receipt of a complaint under sub-section (1) the competent authority may, after making such preliminary inquiry, if any, as he may deem necessary, issue notice thereof to the respondent.

(4) When the respondent appears before the competent authority in compliance with a notice under sub-section (3) the competent authority shall settle the points for determination and proceed to inquire into the complaint and, after taking such evidence as may produced and after hearing the parties, make such order as he may deem fit.

(5) The competent authority shall inquire into the complaint, as nearly as practicable, in the manner prescribed for conducting trials in summons-cases by Magistrate under the Code.

(6) If, on the day appointed for the appearance of the respondent or any day subsequent thereto to which the inquiry may adjourned, the respondent does not appear the competent authority may proceed to hear the complaint and take all such evidence, if any, as may be produced in

support of the complaint and make such orders under this Act as he may deem fit:

Provided that if, an application made by the respondent within fifteen days of the date of *ex parte* order, the competent authority is satisfied that there are sufficient grounds, he may set aside the order and make a fresh inquiry into the complaint.

(7) In any inquiry before the competent authority with reference to any newspaper or news-sheets any previous or subsequent issue of such newspaper or news-sheet may be given in evidence in aid of the proof of the nature and effect of the words, signs or visible representation in respect of which the complaint is made.

(8) For the purpose of hearing and disposing of complaints under this section, the competent authority shall have all the powers of a Judicial Magistrate of the first class under the Code.

18. **Revision by and appeals to Central Government.**—(1) When any order is made by the competent authority under this Chapter against any person, the competent authority shall forthwith report the fact to Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the competent authority have a bearing on the matter and the Central Government may, if satisfied after making such inquiry, if any as it may deem fit, that it is proper so to do, set aside such order or modify such order to the advantage of such person.

(2) Without prejudice to the provisions of sub-section (1) any person aggrieved by an order of the competent authority under this Chapter may, within thirty days of the making of such order prefer an appeal to the Central Government and the Central Government may, after making such inquiry as it may deem fit and after taking into account the action if any, taken by it under sub section (1) in respect of such order, dispose of the appeal confirming modifying or setting aside the order or, as the case may be confirming such action:

Provided that before confirming any such order or modifying it to the disadvantage of the appellant, the Central Government shall give an opportunity to the appellant to represent his case.

(3) On the disposal of the appeal, the Central Government shall communicate the order made by it to the appellant and the competent authority.

(4) If within a period of sixty days from the date of receipt of an appeal under sub-section (2), the Central Government fails to confirm, modify or set aside the order appealed against, the order shall, unless sooner set aside under sub-section (1), be deemed to have been set aside on the date of the expiry of the said period.

*Explanation.*—In computing the said period of sixty days, any period during which the Central Government could not dispose of the appeal by reason of any injunction or order of any Court (including the day on which such injunction or order was issued or made and the date on which it was withdrawn) shall be excluded.

## CHAPTER IV

### PREVENTION OF CIRCULATION AND DISTRIBUTION OF OBJECTIONABLE MATTER

**19. Power of Central Government to declare certain publications forfeited** —Where it appears to the Central Government that any issue of a newspaper or news-sheet or any book or other document, wherever made, contains any objectionable matter, that Government may, by notification in the Official Gazette, stating the grounds for the order, declare that every copy of such issue of the newspaper or news-sheet or of such book or document shall be forfeited to the Central Government.

**20. Power to detain packages containing certain publications when imported.**—(1) Any officer of customs under the Customs Act, 1962 (52 of 1962,) or any other officer empowered by a general or special order by the Central Government in this behalf [illegible]

package imported into India in which he suspects there are newspapers, news-sheets books or other documents containing objectionable matter and shall forthwith forward copies of any such newspaper, news-sheet, book or other document found therein to such officer as the Central Government may appoint in this behalf to be disposed of in such manner as the Central Government may direct.

(2) Any person aggrieved by any action taken under sub-section ( ) may apply, within fourteen days from the date on which such action is taken, to the Central Government for review and the Central Government may pass such orders thereon as it thinks fit.

**21. Prohibition of transmission by post of certain documents.**—(1) No newspaper, news-sheet, book or other document which has been declared to be forfeited under any of the provisions of this Act and no unauthorised newspaper or unauthorised news-sheet shall be transmitted by post.

(2) Any officer in charge of a post office authorised by the Central Government in this behalf may detain in course of transmission by post any article other than a letter which he suspects to contain any document as is mentioned in sub section (1) and shall deliver all such articles to such officer as the Central Government may appoint in this behalf.

(3) If the officer to whom any article is delivered under sub section (2) is satisfied that the article contains any such document as is mentioned in sub-section (1), he may pass such orders as to the disposal of the article and its contents as he deems proper, and if he is not so satisfied, he shall return the article to the post office for transmission to the addressee.

**22. Power to seize and destory unauthorised newspapers and news-sheets** (1).—Any police officer or any other officer empowered in this behalf by a State Government may seize any unauthorised newspaper or unauthorised news-sheet in the State.

(2) Any Metropolitan Magistrate Chief Judicial Magistrate or a Magistrate of the first class may, by warrant, authorised any police officer, not below the rank of a sub-inspector to enter upon and search any place where any stock of unauthorised newspapers or news-sheet may be, or may be reasonably suspected to be, and such police officer may seize any documents found in such place which, in his opinion, are unauthorised newspapers or unauthorised news-sheets.

(3) All documents seized under sub-section (1) shall be produced, as soon as may be, before a Metropolitan Magistrate, a Chief Judicial Magistrate or a Magistrate of the first class and all documents seized under sub section (2) shall be produced, as soon as may be, before the Court of the Magistrate who issued the warrant.

(4) If in the opinion of such Magistrate or Court any of such documents are unauthorised newspapers or unauthorised news sheets, the Magistrate or Court may cause them to be destroyed, but if in the opinion of such Magistrate or Court any of such documents are not unauthorised newspapers or unauthorised news-sheets, such Magistrate or Court shall dispose of them in the manner provided in Sections 457, 458 and 459 of the Code.

**23. Power to seize and forfeit undeclared presses producing unauthorised newspapers and unauthorised news-sheets**—(1) Where a Metropolitan Magistrate or a Chief Judicial Magistrate has reason to believe that an unauthorised newspaper or unauthorised news-sheet is being produced from an undeclared press within the local limits of his jurisdiction, he may, by warrant, authorise any police officer, not below the rank of a sub-inspector, to enter upon and search any place where such undeclared press may be or may be reasonably suspected to be, and if, in the openion of the police officer, any press found in such place is an undeclared press and is used to produce an unauthorised newspaper or unauthorised news-sheet, he may seize such press and any documents found in the place which, in his opinion, are unauthorised newspaper or unauthorised new-sheets.

(2) The police officer shall forthwith make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized;

Provided that where any press which has been seized cannot be readily removed, the police officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may think requisite, is of opinion that a press seized under this section is an unauthorised press which is used to produce an unauthorised newspaper or news-sheet, it may by order in writing, declare the press or any part thereof to be forfeited to the Central Government, but if after such inquiry the Court is not of such opinion it shall dispose of the press in the manner provided in Sections 457, 458 and 459 of the Code.

(4) The Court shall deal with the documents produced before it under this section in the manner provided in sub-section (4) of section 22.

## CHAPTER V

### APPEALS AND APPLICATION TO HIGH COURT

24. **Appeals.**—(1) Any person aggrived by an order passed under Section 18 may prefer an appeal to the High Court within the jurisdiction of which such person ordinarily resides or carries on business or personally works for gain.

2 No appeal shall be entertained under sub-section (1) unless it is made within sixty days of the date of the order appealed against.

3 Upon any appeal under this section, the High Court may pass such order as it deems fit confirming, varying or setting aside the order appealed from and may pass such consequential or incidental orders as may be necessary.

25. **Application to High Court against orders of forfeiture.**—(1) Any person aggrived by an order of forfeiture passed by a Magistrate under sub section (2) of section 10 sub section (3) may within sixty days of the date of such order, make an application to the High Court to which such Magistrate is subordinate.

2 Any person aggrived by an order of forfeiture passed under section 19 or by an order under sub-section 2 of section 20 may, within sixty days of the date of such order, make an application to the High Court within the jurisdiction of which such person ordinarily resides or carries on business or personally works for gain.

3 The High Court to which any application is made under this section may pass such order as it deems fit confirming, varying or setting aside the order in respect of which such application is made and may pass such consequential or incidental orders as may be necessary.

26. **Appeals and applications to be heard by a Bench of three judges.**—Every appeal and every application to a High Court under this Chapter shall where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists of less than three Judges, such Special Bench shall be composed of all the Judges of the High Court.

27. **Procedure in High Court.**— Every High Court may frame rules to regulate the procedure in respect of appeals and applications under this Chapter and until such rules are framed; the practice of such High Court in proceedings in respect of appeal and revision shall apply, in so far as may be practicable, to such appeals and applications.

## CHAPTER VI

### PENALTIES

28. **Penalty for keeping press without making deposit.**—Whoever is the keeper of a press which is used

for the printing or publishing of any newspaper, news-sheet, book or other document without making a deposit as required under Section 8 or Section 9 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

29 **Penalty for publishing newspaper or news sheet without making deposit** —Whoever publishes any newspaper or news-sheet without making a depoist as required under Section 11 or Section 12 or publishes suchnewspaper or news sheet knowing that such security has not been deposited shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

30. **Penalty for acting as editor without making deposit.**—Whoever acts as an editor of a newspaper or news-sheet without making a deposit as required under Section 14 or Section 15 shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

31. **Penalty for disseminating unauthorised newspapers and unauthorised news sheets.**—Whoever sells or distributes or keeps for sale or distribution any unauthorised newspaper or unauthorised news-sheet knowing or having reason on believe that it was an unauthorised news-paper or an unauthorised news-sheet shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

## CHAPTER VII

### MISCELLANEOUS

32. **Service of notices.**—Every notice under this Act shall be served in the manner provided for the service of summonses under the Code:

Provided that if service in such manner cannot by the exercise of due diligence, be effected, the servin

officer shall, where the notice is directed to the keeper of the press, affix a copy thereof to some conspicuous part of the place where the press is situated, as described in the keeper's declaration under section 4 of the Press Registration Act, and, where the notice is directed to the publisher or editor of a newspaper, to a conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of that Act and thereupon the notice shall be deemed to have been duly served.

33. **Issue of search warrants in certain cases.**—(1) Where any press or any copies of newspaper, news-sheet, book or other document are declared forfeited to the Central Government under this Act, the Central Government may require a Magistrate to issue a warrant empowering any police officer, not below the rank of a sub-inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(a) where any such property may be or may be reasonably suspected to be, or

(b) where any copy of such newspaper, news-sheet, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

(2) Without prejudice to the provisions contained in sub-section (1), where any newspaper, news-sheet or other document is declared forfeited to the Central Government it shall be lawful for any police officer to seize the same wherever found.

34. **Conduct of searches.**—Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search-warrants under the Code.

35. **Return of security in certain cases.**—(1) Where any keeper of a press or publisher or editor of a news-paper or news-sheet has deposited any amount as security

further security as required under section 8 or section 9 or section 11 or section 12 or section 14 or section 15 and no further action has been taken in respect of the press or the publisher or the editor under this Act for a period of two years from the date of such deposit, the person who made the deposit or any person claiming under him may apply to the Central Government for the return of the security in deposit.

(2) The Central Government shall, after making such inquiry as it may deem fit and after being satisfied about the claim of the applicant, direct the security to be returned to the applicant.

**36. Application of provisions of Act 33 of 1963.**—For the purpose of determining any period of limitation prescribed by this Act for any application or appeal, the provisions of sections 4 to 24 of the Limitation Act, 1963 shall apply as they apply for determining the period of limitation prescribed for any application or appeal by the Schedule to that Act.

**37. Bar of jurisdiction and protection of action taken in good faith.**—Every declaration of forfeiture purporting to be made under this Act shall as against all persons be conclusive evidence that the fofeiture there in referred to has taken place, and except as provided by this Act,

(a) no proceeding taken or purporting to be taken under this Act shall be called in question or by before any court ; and

(b) no civil or criminal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

**38 Bar of double penalty.**—Notwithstanding anything contained in this Act, no keeper of a press or publisher of any newspaper or news-sheet or editor of any newspaper or news sheet shall be prosecuted under section 28, section 29 or section 30, as the case may be, if for the same act or ommission such person

has been proceeded aganist under section 8 of section 9 or section 11 or section 12 or section 14 or section 15, as the case may be, nor shall any such person be proceeded aganist under section 8 or section 9 or section 11 or section 12 or section 14 or section 15, as the case may be, if for the same act ar omission such person has been prosecuted under section 28, section 29 or section 30, as the case may be.

**39. Cognizability of offences under this Act.** Notwithstanding anything contained in the Code, any offence punishable under this Act and any abetment of such offence shall be cognizable and bailable.

**40. Repeal of sections 6,7 and 8 of Act 35 of 1969.** Section 6, 7 and 8 of the Criminal and Election Laws Amendment Act, 1969 are heareby repealed.

**41. Repeal of Ordinance 28 of 1975 and saving.** (1) The Prevention of Publication of Objectionable Matter Ordinance, 1975 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

K. K. SUNDARAM,

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bl

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

• Notification No. LAW 34 LCA 76.

*Bangalore, Dated 29th April, 1976*

Ordered that the Equal Remuneration Act, 1976 (25 of 1976) published in Part II. Section I of the *Gezette of India* Extraordinary, dated 12th February 1976, berepublished in the *Karnataka Gezette* for general information.

By Order and in the name of the Governor of Karnataka.

B.NAGESHA RAO,

*Under Secretary to Government,*

20 *Dept. of Law and Parliamentary Affairs.*

Assented to on 11th February 1976. Act No. 25 of 1976.

## THE EQUAL REMUNERATION ACT, 1976

•An

Act

*to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

### CHAPTER I

### PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Equal Remuneration Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date not being later than three years from the passing of this Act, as the Central Government may, by notification, appoint and different dates may be appointed for different establishments or employments.

2. **definitions**:—In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means,—

(i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oilfield or major port or any corporation established by or under a Central Act, the Central Government and

(ii) in relation to any other employment, the State Government;

(b) "commencement of this Act" means, in relation to an establishment or employment, the date on which this Act comes into force in respect of that establishment or employment;

(c) "employer" has the meaning assigned to it in clause (f) of section 2 of the Payment of Gratuity Act, 1972; (39 of 1972);

(d) "man" and "woman" means male and female human beings, respectively, of any age;

(e) "notification" means a notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "remuneration" means the basic wage or salary and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express or implied were fulfilled;

(h) "same work or work of a similar nature" means work in respect of which the skill, effort and responsibility

required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment.

(i) "worker" means a worker in any establishment or employment in respect of which this Act has come in to force;

(j) words and expressions used in this Act and not defined but defined in the Industrial Disputes Act, 1947, (14 of 1947) shall have the meanings respectively assigned to them in that Act.

**3 Act to have overriding effect.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act, or in any instrument having effect under any law for the time being in force.

## CHAPTER II

### PAYMENT OF REMUNERATION AT EQUAL RATES TO MEN AND WOMEN WORKERS AND OTHER MATTERS

**4. Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature.**—(1) No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

(2) No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.

(3) Where, in an establisment or employment, the rates of remuneration payable before he commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex, then the higher (in cases where there are only two rates), or, as the case may be, the highest (in cases where there are more than two rates), of such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers:

Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Act.

5. **No discrimination to be made while recruiting men and women workers.**—On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature; make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force:

Provided that the provisions of this section shall not affect any priority or reservation for Scheduled castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

6. **Advisory Committee.**—(1) For the purpose of providing increasing employment opportunities for woman, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extent to which woman may be employed in such establishments or employments at the Central Government may, by notification, specify in this behalf.

(2) Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.

(3) In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of woman for employment, as the case may be, the need for providing increasing employment opportunities for women, including part-time employment, and such other relevent factors as the Committee may think fit.

(4) The Advisory Committee shall regulate its own procedure.

(5) The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment an opportunity to make representatations, issue such directions in respect of employment women workers, as the appropriate Government may think fit.

**7. Power of appropriate Government to appoint authorities for hearing and deciding claims and complaint** —(1) The appropriate Government may, by notification, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the purpose of hearing and deciding.—

(a) complaints with regard to the contravention of any provision of this Act;

(b) claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature,

and may, by the same or subsequent notification, define the local limits within which each such authority shall exercise its jurisdiction.

(2) Every complaint or claim referred to in sub-section (1) shall be made in such manner as may be prescribed.

(3) If any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under sub-section (1).

(4) Where a complaint or claim is made to the authority appointed under sub-section (1), it may, after giving the applicant and the employer an opportunity of being heard. and after such inquiry as it may consider direct,—

(i) in the case of a claim arising out of non payment of wages at equal rates to men and women workers for the same work or work of a similar nature, that payment be made to the worker of the amount by which the wages payable to him exceed the amount actually paid ;

(ii) in the case of complaint, that adequate stepts be taken by the employer so as to ensure that there is no contravention of any provision of this Act.

(5) Every authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure. 1908, (5 of 1908) for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Proceedure, 1973 (2 of 1974.)

(6) Any employer or worker aggrieved by any order made by an authority appointed under sub-section (1), on a complaint or claim may, within thirty days from the date of the order, prefer an appeal to such authority as the appropriate Government may, by notification, specify in this behalf, and that authority may, after hearing the appeal, confirm, modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

(7) The Authority referred to in sub section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified in sub sectiont (6), allow the appeal to be preferred within a further period of thirty days but not thereafter.

(8) The provisions of sub-section (1) of section 33C of the Industrial Disputes Act 1947, (14 of 1947) shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this secti

## CHAPTER III

### MISCELLANEOUS

8. **Duty of employers to maintain registers.** —On and from the commencement of this Act, every employer shall maintain such registers and other documents in relation to the workers employed by him as may be prescribed.

9. **Inspectors.**— (*1*) The appropriate Government may, by notification, appoint such persons as it may think fit to be Inspectors for the purpose to making an investigation as to whether the provisions of this Act, or the rules made thereunder, are being complied with by employers, and may define the local limits within which an Inspector may make such investigation.

(*2*) Every Inspector shall be deemed to be a public servent within the meaning of section 21 ofthe Indian Penal Code (45 of 1860)

(*3*) An Inspector may, at any place within the local limits of his jurisdiction,—

(*a*) enter, at any reasonable time, with such assistance as he thinks fit, any bulding, factory,premises or vessel;

(*b*) require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such document;

(*c*) take, on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act are being, or have been, complied with;

(*d*) examine the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be, or to have been a worker in the establishment;

(*e*) make copies, or take extracts from, any register or other document maintained in relation to the establishment under this Act.

(4) Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

10. **Penalties.**—(1) If after the commencement of this Act, any employer being required by or under the Act, so to do —

(a) omits or fails to maintain any register or other document in relation to workers employed by him or

(b) omits or fails to produce any register, muster roll or other document relating to the employment of workers or

(c) omits or refuses to give any evidence or prevents his agent, servant or any other person incharge of the establishment, or any worker from giving evidence, or

(d) omits or refuses to give any information, he shall be punishable with fine which may extend to one thousand rupees.

(2) If, after the commencement of this Act any employer—

(a) makes any recruitment in contravention of the provisions of this Act, or

(b) makes any payment of remuneration at unequal rates to men and women workers, for the same work or work of a similar nature, or

(c) makes any discrimination between men and women workers in contravention of the provisions of this Act, or

(d) omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of Section 6, he shall be punishable with fine which may extend to five thousand rupees.

(3) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine which may extend to five hundred rupees.

**11. Offences by companies.**—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the Company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals ; and

(*b*) "director", in relation to a firm, means a partner in the firm.

**12. Cognizance and trial of offences.**— (1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint made with the sanction of the appropriate Government or an officer authorised by it in this behalf.

(3) No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made

within three months from the date on which sanction is granted under this section.

13. **Power to make rules.**—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which complaint or claim referred to in sub section (*1*) of section 7 shall be made;

(*b*) registers and other documents which an employer is required under section 8 to maintain in relation to the workers employed by him;

(*c*) any other matter which is required to be or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be mode, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

14. **Power of Central Government to give directions.**—The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

15. **Act not t**

ar as—

(*a*) the terms and conditions of a woman's employment are, in any respect, affected by compliance with the law regulating the employment of women, or

(*b*) any special treatment is accorded to women in connection with the birth, or expected birth, of a child, then to that extent the requirement of equal treatment for men and women as mentioned in this Act shall not apply (but without prejudice to its operation as regards other matters), nor shall that requirement extend to requiring equal treatment as regards terms and conditions relating to retirement, marriage or death or to any provision made in connection with retirement, marriage or death.

**16 Power to make declaration.**—Where the appropriate Government is, on a consideration of all the circumstances of the case, satisfied that the differences in regard to the remuneration or a particular species of remuneration, of men and women workers in any establishment or employment is based on a factor other than sex, it may, by notification, make a declaration to that effect, and any act of the employer attributable to such a difference shall not be deemed to be a contravention of any provision of this Act.

**17. Power to remove difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification make any order, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing the difficulty :

Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

**18. Repeal and saving.**—(1) The Equal Remuneration Ordinance, (1975 12 of 1975.) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed (including any notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force when such thing was done or action was taken.

Printed by the Director of Printing, Stg. & Publications at the Govt. Press, Bhow.

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 35 LCA 1976.

*Bangalore, dated 29th April 1976.*

Ordered that the Motor Vehicles (Amendment) Act, 1976 (Central Act No. 26 of 1976) published in Part II, Section I of the Gazette of India, Extraordinary dated 12th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka

B. NAGESHA RAO,
*Under Secretary to Government,*
21 *Department of Law and Parly. Affairs.*

Assented to on 11th February 1976. Act No. 26 of 1976

## THE MOTOR VEHICLES (AMENDMENT) ACT, 1976

AN

ACT

*further to amend the Motor Vehicles Act, 1939.*

BE it enacted by Parliament in the Twenty-seventh year of the Republic of India as follows :—

**1. Short title and commencement** :—(1) This Act may be called the Motor Vehicles (Amendment) Act, 1976

(2) It shall be deemed to have come into force on the 26th day of September, 1975.

2. **Amendment of Section 63**:—In section 63 of the Motor Vehicles Act, 1939, (4 of 1939) (hereinafter referred to as the principal Act), after sub-section (10), the following sub-sections shall be inserted, namely:—

'(11) Notwithstanding anything contained in sub-section (1), but, subject to the rules that may be made by the Central Government under sub-section (15), the appropriate authority may, for the purpose of encouraging long distance inter-State road transport, grant to the public carriers in a State such number of national permits as the Central Government may specify in this behalf in relation to that State and the provisions of sections 54, 55, 56, 57, 58, 59, 59A, 60, 61 and 64 shall, as far as may be, apply to or in relation to the grant of national permits :

Provided that the number of national permits specified for a State shall not be varied or modified except after consultation with the concerned State Government.

*Explanation.*—In this section—

(a) "national permit" means a permit granted by the appropriate authority to a public carrier authorising him to operate as a public carrier throughout the territory of India or in such contiguous States, not being less than five in number (including the State in which the permit is issued), as may be specified in such permit in accordance with the choice indicated by the public carrier to whom such permit is granted ;

(b) "appropriate authority" in relation to a national permit means the authority which is authorised by this Act to grant a public carrier's permit.

(12) Without prejudice to the provisions of sub-section (1) of section 55, the appropriate authority shall, in considering an application for a national permit, also have regard to the following matters, namely:—

(a) no national permit shall be issued

(i) to an individual owner if he already holds in his own name three or more valid national permits, or when he holds valid national permits as well as valid inter-

State region permits, if the aggregate number of such permits is three or more ;

(ii) to a company which already holds in its own name seven or more valid national permits, or, when it holds valid national permits as well as valid inter-State region permits, if the aggregate number of such permits is seven or more;

(b) other conditions being equal, preference shall be given to applicants who are ex-army personnel, or who have valid licences for driving transport vehicles:

*Explanation.*—In this sub-section "company" includes a body corporate.

(13) If, as a result of the acquisition of one or more inter-state region permits by an individual owner or a company after one or more national permits have been granted to him or it, the aggregate number of the permits held by such individual or company exceeds, in the case of the individual, three, or, in the case of a company, seven, the appropriate authority shall, notwithstanding anything contained in section 60, cancel such number of national permits as would bring down the aggregate number of national permit and inter-state region permit held by such individual, to three, or, in the case of a company, to seven:

Provided that before cancelling any national permit, the appropriate authority shall give to the individual owner or the company, as the case may be, an option to indicate which of the national permits held by him or it should be so cancelled.

(14) Nothing contained in sub-section (12) and (13) shall apply to a State Transport Undertaking,

(15) (a) The Central Government may make rules for carrying out the provisions of sub-section (11).

(b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) the authorisation fee payable for the issue of a national permit ;

(ii) the fixation of the laden weight of the motor vehicle ;

(iii) the distinguishing particulars or marks to be carried or exibited in or on the motor vehicle;

(iv) the colour or colours in which the motor vehicle is to be painted

(v) any matter, not specified in this Act, which shall be borne in mind by the appropriate authority in granting of national permit.

*Explanation* .—In this sub-section "authorisation fee" means the annual fee, not exceeding seven hundred rupees, which may be charged by the appropriate authority of a State to enable a motor vehicle, covered by the national permit, to be used in other States".

**3. Amendment of section 133.**—In section 133 of the principal Act,—

(*a*) in sub-section (3), the words "by the Central Government or", the words "Parliament or", in both the places where they occur, and the words "as the case may be," shall be omitted;

(*b*) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thrity days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses

agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect ,as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

4. (1) **Repeal and saving.**—(1) The Motor vehicles (Amendment) Ordinance, 1975, (14 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

### NOTIFICATION

No. LAW 37 LCA 1976.

*Bangalore, dated the 19th May 1976.*

Ordered that the Coal Mines (Nationalisation) Amendment Ordinance, 1976 (No. 3 of 1976) published in Part II, Section I of the *Gazette of India*, Extraordinary dated 29th April 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

*Under Secretary to Government,*

24 *Department of Law and Parliamentary Affairs.*

GOVERNMENT OF INDIA.

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

*New Delhi, the 29th April, 1976/Vaisakha 9, 1898 (Saka)*

### THE COAL MINES (NATIONALISATION) AMENDMENT ORDINANCE, 1976

No. 3 OF 1976

*Promulgated by the President in the Twenty-seventh Year of the Republic of India*

An Ordinance further to amend the Coal Mines (Nationalisation) Act, 1973

WHEREAS both Houses of Parliament are not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the

President is pleased to promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Coal Mines (Nationalisation) Amendment Ordinance, 1976.

(2) It shall come into force at once.

2. **Act 26 of 1973 to be temporarily amended.**—During the period of operation of this Ordinance, the Coal Mines (Nationalisation) Act, 1973 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

3. **Amendment of Section 3.**—In section 3 of the principal Act, after sub-section (2), following sub-sections shall be inserted, namely :—

"(3) On and from the commencement of the Coal Mines (Nationalisation) Amendment Ordinance, 1976,—

(a) no person, other than—

(i) the Central Government or a Government company or a Corporation owned, managed or controlled by the Central Government, or

(ii) a person to whom a sub-lease, referred to in the proviso to clause (c), has been granted by any such Government, company or corporation, or

(iii) a company engaged in the production of iron and steel,

shall carry on coal mining operation, in India in any form ;

(b) excepting the mining leases granted before such commencement in favour of the Government, company or corporation, referred to in clause (a), and any sub-lease granted by any such Government, company or corporation, all other mining leases and sub-leases in force immediately before such commencement, shall, in so far as they relate to the winning or mining of coal, stand terminated ;

(c) no lease for winning or mining coal shall be granted in favour of any person other than the Government, company or corporation, referred to in clause (a) :

Provided that the Government, company or corporation to whom a lease for winning or mining coal has been

granted may grant a sub-lease to any person in any area on such terms and conditions as may be specified in the instrument granting sub-lease, if the Government, company or corporation is satisfied that—

(i) the reserves of coal in the area are in isolated small pockets or are not sufficient for scientific and economical development in a co-ordinated and integrated manner, and

(ii) the coal produced by the sub-lease will not be required to be transported by rail.

(4) Where a mining lease stands terminated under sub-section (3), it shall be lawful for the Central Government or a Government company or corporation owned or controlled by the Central Government to obtain, notwithstanding anything contained in sub-section (2), or in the proviso to sub-section (2) of section 3 of the Coal Mines (Taking Over of Management) Act, 1973, a prospecting licence or a mining lease in respect of the whole or part of the land covered by the mining lease which stands so terminated".

**4. Amendment of Section 30.**—Section 30 of the principal Act shall be re-numbered as sub-section (1) of that section, and, after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

"(2) Any person who engages, or causes any other person to be engaged, in winning or mining coal from the whole or part of any land in respect of which no valid prospecting licence or mining lease or sub-lease is in force, shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.".

FAKHRUDDIN ALI AHMED,
President

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K. K. SUNDARAM,
Secretary to the Government of India.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bl'ore.

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW. 39 LCA 76.

*Bangalore dated 19th June, 1976*

Ordered that the Indian Light house (Amendment) Act, 1976 of 1976) published in Part II, Section I of the *Gazette of India*, traordinary dated 20th March 1976 be republished in the *Karnataka zette* for general information

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO

*U. Secy. to Govt., Dept. of Law & Parly. Affairs.*

ssented to on 20th March 1976. Act No. 37 of 1976.

### THE INDIAN LIGHTHOUSE (AMENDMENT) ACT, 1976

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT

*Further to amend the Indian Lighthouse Act, 1927.*

BE it enacted by Parliament in the Twenty-seventh Year of the epublic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be calle be Indian Lighthouse (Amendment) Act, 1976.

(2) It shall come into force on such date as the Centra Government may by notification in the Official Gazette, appoint.

2. **Amendment of Section 1.**—In section 1 of the Indian Ligh house Act, 1927 (17 of 1927) (hereinafter referred to as the princip Act), in sub-section (1), the word "Indian" shall be omitted.

3. **Substitution of the words "proper officer" for the wo "Customs-collector".**—Throughout the principal Act, for the expr ssion "Customs-collector", wherever it occurs, the expression "prop officer" seall be substituted.

4. **Amendment of section 2.**—In section 2 of the principal Act

(*i*) clause (*a*) shall be omitted ;

(*ii*) in clause (*h*), the word "and" occurring at the end shall omitted ;

(*iii*) after clause (*h*), the following clause shall be inserte namely :—

'(*hh*) "proper officer", in relation to any functions to be perfo med under this Act, means the officer of Customs who is assigne those functions by the Central Board of Excise and Customs const tuted under the Central Boards of Revenue Act, 1963, (54 of 196 and includes any person appointed by the Central Government discharge the functions of a proper officer under this Act;';

(*iv*) in clause (*i*), for the words and figures "Indian Merchai Shipping Act, 1923' . (21 of 1923.) the words and figures "Merchai Shipping Act, 1958" (44 of 1958) shall be substituted.

5. **Amendment of Section 10.**— In sub-section (1) of sectio 10 of the principal Act, for the words "fifty naye paise per ton", th words "one rupee and fifty paise per ton" shall be substituted.

6. **Amendment of Section 12.**—In section 12 of the princip Act,—

(*i*) for sub-section (1), the following sub-section shall be sub tituted, namely :—

"(1) For the purpose of the levy of light-dues, a ship's tonnag shall be reckoned as under the Merchant Shipping Act, 1958 (44 o 1958) for dues payable on a ship's tonnage.";

(*ii*) in sub-section (2), for clause (*a*), the following claus shall be substituted, namely :—

"(*a*) if the ship is registered under any law for the time being i force in India or under the law of any country, other than India being a country the ships of which are recognised or accepted by th Central Government to be of the tonnage denoted in their certificate of registry or other national papers under any order made under an enactment repealed by sub-section (1) of section 461 of the Merchan Shipping Act, 1958 (44 of 1958) and continued in force under clause (*a*) of sub-section (3) of that section or under any rule made unde clause (b) of sub-section (2) of section 74 of the said Act (any such shi being hereafter in this section referred to as rigistered ship), require the owner or master or other person having possession of the ship's register or other papers denoting her tonnage to produce the same for inspection and, if such owner, master or other person refuses or neglects to produce the register or papers, as the case may be, or otherwise to satisfy the proper officer as to the tonnage of the ship, cause the ship to be measured and the tonnage to be ascertained; or".

7. **Insertion of new Section 19A.**—After section 19 of th principal Act and before the heading "ACCOUNTS", the followin section shall be inserted, namely :—

"19A Fees : Fees may be charged for providing assistance t ships for calibratir g their Wireless Direction Finders ar d for renderin other services to vessels, at such rates as the Central Governmen may specify in the rules made under this Act."

8. **Omission of Section 20A.**—Section 20A of the principal Ac and the heading "DELEGATION OF POWERS" occurring before tha section shall be omitted.

9. **Amendment of Section 21.**—In section 21 of the principa Act,—

(*i*) in sub-section (1), for the words "may make rules" the words "may, by no'ification in the Official Gazette, make rules' shall be substituted ;

(*ii*) in sub-section (2).—

(*a*) in clause (c), the word "and" occurring at the end sha be omitted ;

(*b*) after clause (c), the following clause shall be inserte namely :—

"(*cc*) the rates of fees for providing assistance to ships fo calibrating their Wireless Direction Finders and for ren dering other services to vessels,"

(*c*) after sub-section (2), the following sub-section shall b inserted, namely :—

"(3) Every rule made by the Central Government under th section shall be laid, as soon as may be after it is made before each House of Parliament while it is in session fo a total period of thirty days which may be comprised i one session or in two or more successive sessions, and i before the expiry of the session immediately following th session or the successive sessions aforesaid, both Hous agree in making any modification in the rule, or bot Houses agree that the rule should not be made, the ru shall thereafter have effect only in such modified form c be of no effect, as the case may be ; so, however, that an such modification or annulment shall be without prejudi to the validity of anything previously done under th rule.".

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW. 44. LCA. 1976,

*Bangalore, dated 23rd June 1976.*

Ordered that the Antiquities and Art Treasures (Amendment) Ordinance, 1976 (4 of 1976), published in Part II, Section I of the *Gazette of India*, Extraordinary dated 4th June 1976, be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karna

B. NAGESHA RAO, *Under Secy. to Govt.*
*Dept. of Law and Parly. Affairs*

GOVERNMENT OF INDIA

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

**(Legislative Department)**

*New Delhi, the 4th June, 1976/Jyaistha 14, 1898*

THE ANTIQUITIES AND ART TREASURES (AMENDMENT) ORDINANCE, 1976

No. 4 of 1976

Promulgated by the President in the Twenty-seventh Year of the Republic of India.

An Ordinance to amend the Antiquities and Art Treasures Act, 1972.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. **Short title and Commencement.**—(1) This Ordinance may be called the Antiquities and Art Treasures (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Act 52 of 1972 to be temporarily amended.**—During the period of operation of this Ordinance, the Antiquities and Art Treasures Act, 1972 (hereinafter referred to as the principal Act) shall have effect subject to the amendments specified in sections 3, 4 and 5.

3. **Amendment of section 5.**—In section 5 of the principal Act for the words "On and from the expiry of a period of two months of the commencement of this Act", the words "As from the date of

xpiry of a period of six months from the commencement of this Act" hall be substituted.

4. **Amendment of section 16**.—In section 16 of the principal ct in sub-section (2), for the words "shall be accompanied", the ords "shall, in the case of such antiquities or class of antiquities s the Central Government may, by notification in the Official azette, specify, be accompanied" shall be substited.

5. **Amendment of section 18.**—In section 18 of the prinicpal ct, after the words "owned, controlled or managed by the Governent", the words "or any local authority or by any such body as he Central Government may, for reasons to be recoreded in writing pprove for the purpose of this section by general or special order" hall be inserted.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 46 LCA 76

*Bangalore, dated 28th June 1976.*

Ordered that the Maintenance of Internal Security (Amendment) Ordinance, 1976 (No. 5 of 1976) published in Part II, Section I of the *Gazette of India*, Extraordinary, dated 16th June 1976, be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government,*
31 *Deptt. of Law and Parly. Affairs.*

GOVERNMENT OF INDIA

**MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

(Legislative Department)

*New Delhi, the 16th June, 1976/Jyaistha 26, 1898 (Saka)*

THE MAINTENANCE OF INTERNAL SECURITY AMENDMENT ORDINANCE, 1976.

No. 5 of 1976.

Promulgated by the President in the Twenty-seventh Year of the Republic of India.

An Ordinance further to amend the Maintenance of Internal Security Act, 1971.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Maintenance of Internal Security (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. **Amendment of Act 26 of 1971.**—In section 16A of the Maintenance of Internal Security Act, 1971 (hereinafter referred to as the principal Act), in sub-section (1), for the words "twelve months", the words "twenty-four months" shall be substituted.

3. **Removal of doubts.**— For the removal of doubts, it is hereby declared that every declaration made under section 16 A of the principal Act before the commencement of this Ordinance and in force immediately before such commencement shall have effect as if the amendment made in that section by this Ordinance had been in force on and from the 29th day of June, 1975.

FAKHRUDDIN ALI AHMED,
*President*

K. K. SUNDARAM,
31 *Secy. to the Govt. of India.*

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bl'or

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 48 LCA 1976

*Bangalore Dated the 2nd July 1976*

Ordered that the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1976 (Central Ordinance No. 6 of 1976) published in Part II, Section I of the Gazette of India, Extraordinary dated 16th June, 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

36 B. NAGESHA RAO,

*U. Secy. to Govt., Dept. of Law and Parly. Affairs,*

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

**(Legislative Department)**

*New Delhi, the 16th June, 1976/Jyeistha 26, 1898 (Saka,*

### THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ORDINANCE, 1976

No 6 OF 1976.

Promulgated by the President in the Twenty-seventh Year of the Republic of India.

An Ordinance further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance.—

1. *Short title and commencement.*—(1) This Ordinance may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2 *Amendment of Act 52 of 1974.*—In section 12A of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (hereinafter referred to as the principal Act,) in sub-section (1), for the words "twelve months" the words "twenty-four months" shall be substituted.

3 *Removal of doubts.*—For the removal of doubts, it is hereby declared that every declaration made under section 12A of the principal Act before the commencement of this Ordinance and in force immediately before such commencement shall have effect as if the amendment made in that section by this Ordinance had been in force on and from the 1st day of July, 1975.

FAKHRUDDIN ALI AHMED
*President.*

K. K. SUNDARAM,
*Secy. to the Govt. of India.*

Printed by the Director of Printing, Stys & Publications at the Govt. Press, Bhore

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 13 LCR 1976.

*Bangalore dated the 6th July, 1976.*

Ordered that the Urban Land (Ceiling and Regulation) Second Amendment Rules, 1976 published in Part II, Section 3 (i) of the Gazette of India, dated 22nd May 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

16 *Under Secy. to Govt. Dept. of Law and Parly. Affair*

### GOVERNMENT OF INDIA

New Delhi, the 10th May, 1976.

G. S. R. 718.—In exercise of the powers conferred by sub-section (1) read with clause (m) of sub-section (2) of section 46 of the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976), the Central Government hereby makes the following rules further to amend the Urban Land (Ceiling and Regulation) Rules, 1976, namely :—

1. (1) These rules may be called the Urban Land (Ceiling and Regulation) Second Amendment Rules, 1976.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Urban Land (Ceiling and Regulation) Rules, 1976, in the First Schedules, in Form VIII,—

(a) in paragraph 1, after the word 'lease' the brackets and words "(if the transfer is in any other manner, specify the same)" shall be inserted;

(b) in paragraph 3, for the words "I enclose", the words "I enclose/I do not enclose" shall be substituted;

(c) in the Annexure, for item 4, the following item shall be substituted, namely :—

"4 (a) Name and address of the prospective transferee.

(b) (i) Whether the prospective transferee is an authority, institution, or organisation specified in sub-section (1) of section 19; and

(ii) Whether Chapter III of Act shall/shall not apply to the nds intended to be transferred to it.

(d) in the Statement,—

(i) in the opening, portion for the words "land with a building", and for the words "land with building", the words "land with/ithout building" shall be substituted;

(ii) for the heading "Particulars of vacant land", the heading Particulars of urban or urbanisable land with or without building hall be substituted;

(iii) after the words "I propose to utilise the land for the purpose of .....", the following shall be inserted;

NOTE.—This statement need not be enclosed along with the application, where the prospective transferee is an authority, institution or organisation specified in clause (i), (ii), (iii) or (v) of sub-section (1) of section 19.

Provided that in case the prospective transferee is a land mortgage bank, the Statement shall be enclosed with the application where the transfer is otherwise than in satisfaction of its dues".

No. 1/55/76-UCU.]

S. MAHADEVA AYYAR, Dy. Secy.

## MINISTRY OF WORKS AND HOUSING

*New Delhi, the 29th April, 1976.*

G.S.R. 717.—In exercise of the powers conferred by section 47 of the Urban Land (Ceiling and Regulation) Act, 1976 (133 of 1976), the Central Government hereby makes the following Order, namely:—

1. (1) This Order may be called the Urban Land (Ceiling and Regulation) Removal of Difficulties Order No. 1.

(2) It applies to the States in which the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976) is in force at the commencement of this Order.

(3) It shall come into force at once.

2. Where:—

(a) the whole of the peripheral area of an urban agglomeration in relation to any State or Union territory falls within the boundaries of any other State or Union territory; or

(b) a part of the peripheral area of an urban agglomeration in relation to any State or Union territory falls within the boundaries of any other State or Union territory.

then,—

(i) in a case falling under sub-paragraph (a), such urban agglomeration shall include the peripheral area; and

(ii) in a case falling under sub-paragraph (b), such urban agglomeration shall include only so much of the peripheral area as is within the boundaries of the State or Union territory to which that urban agglomeration relates.

3. The entire Thana urban agglomeration (including the peripheral area thereof) specified against "9. Maharashtra" in column (1) of Schedule I to the Urban Land Ceiling and Regulation) Act, 1976 (33 of 1976) shall continue to be category D notwithstanding that a portion of that urban agglomeration falls within the peripheral area of the Greater Bombay urban agglomeration.

[No. F.1/36/76-UCU.]

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW. 43 LCA. 76.

*Bangalore, dated the 28th June 1976.*

Ordered that the Marriage Laws (Amendment) Act, 1976 (Central Act No. 68 of 1976) published in Part II, Section I of the *Gazette of India*, Extraordinary dated 27th May 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO, *Under Secy. to Gov*
*Dept. of Law and Parly. Affairs.*

## GOVERNMENT OF INDIA

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

**(Legislative Department)**

*New Delhi, the 27th May, 1976/Jyaistha 6, 1898* (Saka)

The following Act of Parliament received the assent of the President on the 27th May, 1976, and is hereby published for general information :—

THE MARRIAGE LAWS (AMENDMENT) ACT, 1976

No. 68 OF 1976

[*27th May, 1976*]

**An Act further to amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954.**

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

### CHAPTER I

PRELIMINARY

**1. Short title**—This Act may be called the Marriage Laws (Amendment) Act, 1976.

### CHAPTER II

AMENDMENTS TO THE HINDU MARRIAGE ACT, 1955

**2 Amendment of section 5.**—In the Hindu Marriage Act, 1955 (25 of 1955) (hereinafter referred to as the Hindu Marriage Act), in section 5, for clause (ii), the following clause shall be substituted, namely :—

"(*ii*) at the time of the marriage, neither party—

(*a*) is incapable of giving a valid consent to it in consequence of unsoundness of mind ; or

(*b*) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children ; or

(*c*) has been subject to recurrent attacks of insanity or epilepsy;".

3. **Amendment of Section 9.**—In section 9 of the Hindu Marriage Act,—

(*a*) in sub-section (1), brackets and figure "(1)" shall be omitted and to that sub-section as so amended, the following *Explanation* shall be added, namely :—

"*Explanation.*—Where a question arises whether has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.";

(*b*) sub-section (*2*) shall be omitted.

4. **Amendment of section 10.**—In section 10 of the Hindu Marriage Act, for sub-section (*1*) and the *Explanation* thereunder, the following sub-section shall be sub-stituted, namely :—

"(*1*) Either party to a marriage, whether solemnized before or after the commencement of this Act, may present a petition praying for a decree for judicial separation on any of the grounds specified in sub-section (*1*) of section 13, and in the case of a wife also on any of the grounds specified in sub-section (*2*) thereof, as grounds on which a petition for divorce might have been presented."

5. **Amendment of section 11.**—In section 11 of the Hindu Marriage Act, after the words "presented by either party thereto," the words "against the other party" shall be inserted.

6. **Amendment of section 12.**—In section 12 of the Hindu Marriage Act,—

(*a*) in sub-section (*1*),—

(*i*) for clause (*a*), the following clause shall be substituted namely :—

"(*a*) that the marriage has not been consummated owing to the impotence of the respondent ; or";

(*ii*) in clause (*c*), for the words "or fraud", the words "or by fraud as to the nature of the ceremony or as to any material fact or circumstance concerning the respondent" shall be substituted ;

(*b*) in sub-section (*2*), in clauae (*b*), in sub-clause (*iii*), for the words 'the grounds for a decree", the words "the said ground" shall be substituted.

7. **Amendment of Section 13.**—In section 13 of the Hindu Marriage Act—

(*a*) in sub-section (*1*),—

(*i*) for clause (*i*), the following clauses shall be substituted namely:—

"(*i*) has, after the solemization of the marriage, had voluntary sexual intercouse with any person other than his or her spouse ; or

(*ia*) has, after the solemnization of the marriage, treated the petitioner with cruelty ; or

(*ib*) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition ; or" ;

(*ii*) for clause (*iii*), the following clause shall be substituted namely :—

(*iii*) has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.

*Eaplanation.*—In this clause,—

(*a*) the expression "mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia;

(*b*) the expression "psychopathic disorder" means a persistent disorder or disability of mind (whether or not including sub-normality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the other party, and whether or not it requires or is susceptible to medical treatment ; or ;

(*iii*) in clauses (*iv*) and (*v*), the words, "for a period of not less than three years immediately preceding the presentation of the petition," shall be omitted ;

(*iv*) after clause (*vii*), the following *Explanation* shall be inserted namely :—

*Exaplanation.*—In this sub-section, the expression "desertion' means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the wilful neglect of the petitioner by the other party to the marriage, and its grammatical variations and cognate expressions shall be construed accordingly.'

(*b*) in sub-section (*1A*), for the words "two years" in the two places where they occur, the words "one year" shall be substituted ;

(*c*) in sub-section (*2*),—

(*i*) in clause (*ii*), for the word "bestiality", the words "bestiality; or" shall be substituted ;

(*ii*) after clause (*ii*) as so amended, the following clauses shall be inserted, namely :—

"(*iii*) that in a suit under section 18 of the Hindu Adoptions and Maintenance Act, 1956, (78 of 1956). or in a proceeding under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) (or under the corresponding section 488 (5 of 1898). of the Code of Criminal Procedure, 1898), a decree or order, as the case may be, has been passed against the husband awarding maitenance to the wife notwithstanding that she was living apart and that since the passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards : or

(*iv*) that her marriage (Whether consummated or not) was solemnized before she attained the age of fifteen years and she has repudiated the marriage after attaining that age but before attaining the age of eighteen years.

*Explanation*,—This clause applies whether the marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976.".

8. *Insertion of new sections 13A and 13B.* —After section 13 of the Hindu Marriage Act as so amended, the following section shall be inserted, namely:—

*Alternate relief in divorce proceedings*.—"13A, in any proceeding under this Act, on a petition for dissolution of marriage by a decree of divorce, except in so far as the petition is founded on the grounds mentioned in clauses (*ii*), (*vi*) and (*viii*) of sub-section (1) of section 13 the court may, if it considers it just so to do having regard to the circumstances of the case, pass instead a decree for judicial separation ;

*Divorce by mutual consent* 13B.—(1) Subject to the provisions of this Act a petition for dissolution of marriage by a decree of divorce may be present to the district court by both parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976, on the ground that they have been living separatly for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to

in sub-section (*1*) and not latar than eighteen months arter the said date, if the petition is not withdrawn in meantime, the court shall on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce delaring the marriage to be dissolved with effect from the date of the decree.".

*9. Amendment of section 14.*—In section 14 of the Hindu Marriage Act,—

(*i*) in sub-section (*1*),-

(*a*) for the words "unless at the date of the presentation of the petition three years have elapsed", the words "unless at the date of the presentation of the petition one year has elapsed" shall be substituted;

(*b*) in the proviso,—

(*1*) for the words "before three years have elapsed", the words "before one year has elapsed", shall be substituted;

(2) for the words "expiry of three years," the words "expiry of one year" shall be substituted ;

(3 for the words "expiration of the said three years", the words "expiration of the said one year" shall be substituted :

(ii) in sub-section (2),—

(*a*) for the words "expiration of three years", the words "expiration of one year" shall be substituted ;

(*b*) for the words "said three years", the words "said one year" shall be substituted.

*10. Amendment of section 15.*—In section 15 of the Hindu Marriage Act, the proviso shall be omitted.

*11. Substitution of new section for section 16.*—For section 16 of the Hindu Marriage Act, the following section shall be substituted, namely:—

*Legitimacy of children of void and voidable marriages.*—"16 (*1*) Notwithstanding that a marriage is null and void under section 11, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of the Marriage Laws (Amendment) Act, 1976, and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act.

(2) where a decree of nullity is granted in respect of a voidable marriage under section 12, any child begotten or conceived before the decree is made, who would have been the legitimate child

of the parties to the marriage if at the date of the decree it had been dissolved instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be construed as conferring upon any child of a marriage which is null and void or which is annulled by a decree of nul ity under section 12, any rights in or to the property of any person, other than the parents, in any case where, but for the passing of this Act, such child wou'd have been incapable of posseing or acquiring any such rights by reason of his not being the legitimate child of his parents."

*12. Substitution of new section for section 19.*—For section 19 of the Hindu Marriage Act, the following section shall be substituted, namely :—

*Court to which petition shall be presented* —"19. Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction—

(i) the marriage was solemnized, or

(ii) the respondent, at the time of the presentation of the petition, resides, or

(iii) the parties to the marriage last resided together, or

(iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive."

*13. Amendment of section 20.*—In section 20 of the Hindu Marriage Act, in sub-section (1), for the words "and shall also state," the words and figures "and, except in a petition under section 11, shall also state" shall be substituted.

*14. Insertion of new sections 21A, 21B and 21C.*—After section 21 of the Hindu Marriage Act, the following sections shall be inserted namely:—

*Power to transfer petitions in certain cases.*—"21A. (1) Where—

(*a*) a petition under this Act has been presented to a district court having jurisdiction by a party to marriage praying for a decree for judicial separation under section 10 or for a decree of divorce under section 13, and

(*b*) another petition under this Act has been presented thereafter by the other party to the marriage praying for a decree for judicial separation under section 10 or for a decree of divorce under

section 13 on any ground, whether in the same district court or in different district court in the same State or in a different State, the petitions shall be dealt with as specified in sub-section (2).

(2) In a case where sub-section (1) applies—

(a) if the petitions are presented to the same district court both the petitions shall be tried and heard together by that district court;

(b) if the petitions are presented to different district courts the petition presented later shall be transferred to the district court in which the earlier petition was presented and both the petitions shall be heard and disposed of together by the district court in which the earlier petition was presented.

(3) In a case where clause (b) of sub-section (2) applies, the court or the Government, as the case may be, competent under the Code of Civil Procedure, 1908 (5 of 1908) to transfer any suit or proceeding from the district court in which the later petition has been presented to the district court in which the earlier petition is pending, shall exercise its powers to transfer such later petition as if it had been empowered so to do under the said Code.

*Special provision relating to trial and d sposal of petitions under the Act* —21B. (1) The trial of a petition under this Act shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion unless the court finds the adjournment of the trail beyond the following day to be necessary for reasons to be recorded

(2) Every petition under this Act shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of service of notice of the petition on the respondent.

(3) Every appeal under this Act shall be heard as expeditiously as possible, and endeavour shall be made to conclude the hearing within three months from the date of service of notice of appeal on the respondent.

*Documentary evidence. 21C.*—Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence in any proceeding at the trial of a petition under this Act on the ground that it is not duly stamped or registered."

*15 Substitution of new Section for Section 22.*—For Section 22 of the Hindu Marriage Act, the following section shall be substituted, namely :—

*Proceedings to be in camera and may not be printed or published.*— 2. (1) Every proceeding under this Act shall be conducted *in camera* and it shall not be lawful for any person to print or publish

any matter in relation to any such proceeding except a judgment of the High Court or of the Supreme Court printed or published with the previous permission of the Court.

(2) If any person prints or publishes any matter in contravention of the provisions contained in sub-section (1), he shall be punishable with fine which may extend to one thousand rupees.',

*16. Amendment of section 23.*—In section 23 of the Hindu Marriage Act.—

(*a*) in sub-section (1).—

(*i*) in clause (*a*), after the words "the petitioner", the brackets words, letters and figures "[except in cases where the relief is sought by him on the ground specified in sub-clause (*a*), sub-clause (*b*) or sub-clause (*c*) of clause (*ii*) of section 5]" shall be inserted ;

(*ii*) in clause (*b*), the words, brackets, letter and figures "in clause (*f*) of sub-section (*1*) of section 10, or" shall be omitted ;

(*iii*) after clause (*b*), the following clause shall be inserted, namely :-

"(*bb*) when a divorce is sought on the ground of mutual consent such consent has not been obtained by force, fraud or undue influence and";

(*iv*) in clause (*c*), for the words "the petition", the words, brackets and figures "the petition (not being a petition presented under section (11)" shall be substituted ;

(*b*) to sub-section (*2*), the following proviso shall be added at the end, namely :—

"Provided that nothing contained in this sub-section shall apply to any proceeding wherein relief is sought on any of the grounds specified in clause (*ii*), clause (*iii*), clause (*iv*), clause (*v*), clause (*vi*) or clause (*vii*) of sub-section (1) of section 13" ;

(*c*) after sub-section (*2*) as so amended, the following sub-sections shall be inserted, namely :—

"(3) For the purpose of aiding the court in bringing about such reconciliation, the court may, if the parties so desire or if the court thinks it just and proper so to do, adjourn the proceedings for a reasonable period not exceeding fifteen days and refer the matter to any person named by the parties in this behalf or to any person nominated by the court if the parties fail to name any person, with directions to report to the court as to whether reconciliation can be and has been, effected and the court shall in disposing of the proceeding have due regard to the report.

(4) In every case where a marriage is dissolved by a decree of divorce, the court passing the decree shall give a copy thereof free of cost to each of the parties."

*17. Insertion of new section 23A.*—After section 23 of the Hindu Marriage Act, the following section shall be inserted, namely:—

"*23A. Relief for respondent in divorce and other proceedings.*—In any proceeding for divorce or judicial separation or restitution of conjugal rights, the respondent may not only oppose the relief sought on the ground of petitioner's adultery, cruelty or desertion, but also make a counter-claim, for any relief under this Act on that ground; and if the petitioner's adultry, cruelty or desertion is proved, the court may give to the respondent any relief under this Act to which he or she would have been entitled if he or she had presented a petition seeking such relief on that ground.".

*18 Amendment of section 25*—In section 25 of the Hindu Marriage Act,—

(*a*) in sub-section (1) —

(*i*) the words "while the applicant remains unmarried" shall be omitted;

(*ii*) for the words "and the conduct of the parties", the words "conduct of the parties and other circumstances of the case" shall be substituted;

(*b*) in sub-section (3), for the words "it shall rescind the order" the words "it may at the instance of the other party vary, modify or rescind any such order in such manner as the court [illegible] just" shall be substituted.

*19, Sub titution of new* [illegible] for section 28 of the Hindu Marriage Act, the following sections shall be substituted namely :—

"*28, Ap*[illegible] the court in any proceeding under this Act shall subject to the provisions of sub-section (3), be appealable as decrees of the court made in the exercise of its original civil jurisdiction, and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction.

(2) Orders made by the court in any proceeding under this Act under section 25 or section 26 shall, subject to the provisions of sub-section (3), be appealable if they are not interim orders, and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in exercise of its original civil jurisdiction.

(3) There shall be no appeal under this section on the subject of costs only.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of the decree or order.

*Enforcement of decrees and orders.*—28A. All decrees and orders made by the court in any proceeding under this Act shall be enforced in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction for the time being are enforced.".

## CHAPTER III

### AMENDMENTS TO THE SPECIAL MARRIAGE ACT, 1954

*20. Amendment of section 2.*—In section 2 of the Special Marriage Act, 1954 (43 of 1954) (hereinafter referred to as the Special Marriage Act), for clause (e), the following clause shall be substituted, namely :—

'(e) "district court" means, in any area for which there is a city civil court, that court, and in any other area, the principal civil court of original jurisdiction, and includes any other civil court which may be specified by the State Government by notification in the Official Gazette as having jurisdiction in respect of the matters dealt with in this Act;'.

*21. Amendment of section 4.*—In section 4 of the Special Marriage Act, for clause (b), the following clause shall be substituted, namely :—

"(b) neither party—

(i) is incapable of giving a valid consent to it in consequence of unsoundness of mind ; or

(ii) though capable of a giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children ; or

(iii) has been subject to recurrent attacks of insanity or epilepsy ;"

*22. Insertion of new section 21A.*—In Chapter IV of the Special Marriage Act, after section 21, the following section shall be inserted namely :—

*Special provisions in certain cases* —21A. Where the marriage is solemnized under this Act of any person who professes the Hindu, Buddhist, Sikh or Jaina religion with a person who professes the Hindu, Buddhist, Sikh or Jaina religion, section 19 and section 21 shall not apply and so much of section 20 as creates a disability shall also not apply.",

*23. Amendment of section 22.*—To section 22 of the Special Marriage Act, the following *Explanation* shall be added at the end, namely :—

"*Explanation.*—Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society,".

*24. Amendment of section 23.*—In section 23 of the Special Marriage Act in sub-section (1), in clause (*a*), after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter " and sub-section (1A)" shall be inserted.

*25. Amendment of section 24.*—In section 24 of the Special Marriage Act, in sub-section (*1*), for the words "and may be so declared" the words "and may, on a petition presented by either party thereto against the other party, be so declared' shall be substituted.

*26. Substitution of new section for section 26.*—For section 26 of the Special Marriage Act, the following section shall be substituted, namely :—

*26. Legitimacy of children of void and voidable marriages.*—(*1*) Notwithstanding that a marriage is null and void under section 24, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of the Marriage Laws (Amendment) Act, 1976, and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act.

(*2*) Where a decree of nullity is granted in respect of a voidable marriage under section 25, any child begotten or conceived before the decree is made, who would have been the legitimate child of the parties to the marriage if at the date of the decree it has been dissolved instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

(*3*) Nothing contained in sub-section (1) or sub-section (*2*) shall be construed as conferring upon any child of a marriage which is null and void or which is annulled by a decree of nullity under section 25, any rights in or to the property of any person, other than the parents in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents."

*27. Amendment of section 27.*—In section 27 of the Special Marriage Act, in sub-section, (*1*)—

(*a*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:-

"(*a*) has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse or

(b) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition ; or" ;

(*b*) in clause (*c*), the proviso shall be omitted ;

(*c*) for clauses (*e*) and (*f*), the following clauses shall be substituted, namely :—

'(*e*) has been incurably of unsound mind, or has been seffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.

*Explanation.*—In this clause,—

(*a*) the expression "mental disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia

(*b*) the expression ' psychopathic disorder" means a persistent disorder or disability of mind (whether or not including sub-normality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the respondent, and whether or not it requires or is susceptible to medical treatment ; or

(*f*) has been suffering from venereal disease in a communicable form ; or' ;

(*d*) in clause (*g*), the words " for a period of not less than three years immediately preceding the presentation of the petition" shall be omitted ;

(*e*) after clause (*h*), the following *Explanation* shall be inserted, namely :—

'*Explanation.*—In this sub-section, the expression "desertion" means desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the wilful neglect of the petitioner by the other party to the marriage, and its grammatical variations and cognate expressions shall be construed accordingly ;'

(*f*) the words "and by the wife on the ground that her husband has, since the solemnization of the marriage, been guilty of rape sodomy or bestiality" occurring at the end shall be omitted ;

(*g*) after sub-section (1), the following sub-section shall be inserted, namely :—

"(*1A*) A wife may also present a petition for divorce to the district court on the ground,—

(*i*) that her husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality ;

(*ii*) that in a suit under section 18 of the Hindu Adoption and Maintenance Act, 1956, (78 of 1956) or in a proceeding under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) (or under the corresponding section 488 of the Code of Criminal Procedure, 1898), (5 of 1898) a decree or order, as the case may be, has been passed against the husband awarding maintenance to the wife notwithstanding that she was living apart and that since the passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards.".

*28. Insertion of new section 27A.*—After section 27 of the Special Marriage Act as so amended, the following section shall be inserted, namely :—

"*27A. Alternate relief in divorce proceedings.*—In any proceeding under this Act, on a petition for dissolution of marriage by a decree of a divorce, except in so far as the petition is founded on the ground mentioned in clause (*h*) of sub-section (*1*) of section 27, the court may, if it considers it just so to do having regard to the circumstances of the case, pass instead a decree for judicial separation.".

*29. Amendment of section 28.*—In section 28 of the Special Marriage Act, in sub-section (2), for the words, brackets and figure "On the motion of both the parties made not earlier than one year after the date of the presentation of the petition referred to in sub-section (*1*) and not latter than two years", the words, brackets and figure "On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (*1*) and not later than eighteen months" shall be substituted.

**30. Amendment of section 29.**—In section 29 of the Special Marriage Act,—

(*i*) in sub-section (*1*),—

(*a*) for the words "unless at the date of the presentation of the petition three years have passed", the words "unless at the date of the presentation of the petition one year has passed" shall be substituted.

(*b*) in the proviso,-

(*1*) for the words "before three years have passed" the words "before one year has passed" shall be substituted ;

(*2*) for the words "expiry of three years" the words "expiry of one year" shall be substituted;

(*3*) for the words "expiration of the said three years" the words "expiration of the said one year" shall be substituted ;

(*ii*) in sub-section (2),—

(*a*) for the words "expiration of three years" the words 'xpiration of one year" shall be substituted ;

(*b*) for the words "said three years", the words "said one ear" shall be substituted.

31. *Amendment of section 30.*—In section 30 of the Sepcial larriage Act, the words "and one year has elapsed thereafter but ot sooner," shall be omitted.

32. *Amendment of section 31.*—For sub-section (*1*) of section 31 f the Special Marriage Act, the following sub-section shall be substituted, namely :—

"(*1*) Every petition under Chapter V or Chapter VI shall be resented to the district court within the local limits of whose riginal civil jurisdiction—

(*i*) the marriage was solemnized ; or

(*ii*) the respondent, at the time of the presentation of the etition resides ; or

(*iii*) the parties to the marriage last resided together ; or

(*iv*) the petitioner is residing at the time of the presentation f the petition, in a case where the respondent is, at that time, esiding outside the territories to which this Act extends, or has ot been heard of as being alive for a period of seven years by those vho would naturally have heard of him if he were alive.".

33. *Substitution of new section for section 33* —For section 33 f the Special Marriage Act, the following section shall be substituted, namely :—

"33 *Proceedings to be* in camera *and may not be printed or ublished.*—(*1*) Every proceeding under this Act shall be conducted *n camera* and it shall not be lawful for any person to print or publish ny matter in relation to any such proceeding except a judgment of he High Court or of the Supreme Court printed or published with he previous permission of the Court.

(2) If any person prints or publishes any matter in contravenion of the provisions contained in Sub-section (*1*), he shall be unishable with fine which may extend to one thousand rupees.".

34. *Amendment of section 34.*—In section 34 of the Special Marriage Act,—

(*a*) in sub-section (*1*), in clause (*b*), for the words "where the ground of the petition is adultery, the petitioner has not in any manner been accessory to or connived at or condoned the adultery,"

the words, brackets, letter and figures "where ths petition is founded on the grounds specified in clause (*a*) of sub-section (*1*) of section 27, the petitioner has not in any manner been accessory to or connived at or condoned the act of sexual intercourse referred to therein," shall be substituted;

(*b*) to sub-section (*2*), the following proviso shall be added at the end, namely :—

"Provided that nothing contained in this sub-sectioe shall apply to any proceeding wherein relief is sought on any of the grounds specified in clause (*c*), clause (*e*), clause (*f*), clause (*g*) and clause (*h*) of sub-section (*1*) of section 27.";

(*c*) after sub-section (*2*) as so amended, the following sub-sections shall be inserted. namely :—

"(*3*) For the purpose of aiding the court in bringing about such reconciliation the court may, if the parties so desire or if the court thinks it just and proper so to do, adjourn the proceedings for a reasonable period not exceeding fifteen days and refer the matter to any person named by the parties in this behalf or to any person nominated by the court if the parties fail to name any person, with directions to report to the court as to whether reconcilation can be and has been, effected and the court shall in disposing of the proceeding have due regard to the report.

(*4*) In every case where a marriage is dissolved by a decree of divorce, the court passing the decree shall give a copy thereof free of cost to each of the parties.".

35. *Substitution of new section for section 35.*—For section 35 of the Special Marriage Act, the following section shall be substituted, namely :—

"35. *Relief for respondent in divorce and other proceedings.*—In any proceeding for divorce or judicial separation or resttiution of conjugal rights. the respondent may not only oppose the relief sought on the ground of petitioner's adultery, cruelty or desertion, but also make a counter-claim for any relief under this Act on that ground, and if the petitioner's adultery, cruelty for desertion is proved, the court may give to the respondent any relief under this Act to which he or she would have been entitled if he or she had presented a petition seeking such relief on that ground".

*36. Amendment of section 37.*—In section 37 of the Specail Marriage Act,—

(*a*) in sub-section (1), for the words "parties", the words the conduct of the parties and other circumstances of the case" shall be substituted;

(*b*) in sub section (3), for the words "it shall rescind the order,, the words "it may, at the instance of the husband very, modify or rescind any such order and in such manner as the court may deem just,, shall be substituted.

*37. Substitution of new sections for section 39.*—For section 39 of the Special Marriage Act, the following sections shall be substituted, nemely :—

'39. *Appeal from decrees and orders.*—(1) All decrees made by the court in any proceeding under Chapter V or Chapter VI shall, subject to the provisions of sub-section (3), be appealable as decrees of the court made in the exercise of its original civil jurisdiction, and such appeal shall lie to the court to which appeals ordinarily lie from the decisions of ths court given in the exercise of its original civil jurisdiction.

(2) Orders made by the court in any proceeding under this Act under section 37 or section 38 shall, subject to the provision of sub section (3), be appealable if they are not interim orders, and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction.

(3) There shall be no appeal under this section on the subjec of costs only.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of the decree or order.

*39A. Enforcement of decrees and orders.*—All decrees and orders made by the court in any proceeding under Chapter V or Chapter VI shall be enforced in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction for the time being are enforced.''

**38. Insertion new sections 40A 40B and C.**—After section 40 of the Special Marriage Act, the following sections shall be inserted namely:—

*Powers to transfer petitions in certain cases.*—*40A.* (*1*) Where

(*a*) a petition under this Act has been presented to the district court having jurisdiction by a party to the marriage praying for a decree for judicial separation under section 23 or for a decree of divorce under section 27, and

(*b*) another petition under this Act has been presented thereafter by the other party to the marriage praying for decree for judicial separation under section 23, or for decree of divorce under section 27 on any ground whether in the same district court or in a different district court, in the same State or in a different State,

the petition shall be dealt with as specified in sub-section (2)

(2) In case where suub-section (1) applies,—

(*a*) if the petitions are presented to the same district court, both the petitions shall be tried and heard together by that district court ;

(*b*) if the petitions are presented to different district courts, the petition presented later shall be transferred to the district court in which the earlier petition was presented and both the petitions shall be heard and disposed of together by the district court in which the earlier petition was presented.

(3) In a case where clause (*b*) of sub-section (2) applies, the court or the Government, as the case may be, competent under the Code of Civil Procedure, 1908 (8 of 1908) to transfer any suit or proceeding from the district court in which the later petition has been presented to the district court in which the earlier petition is pending, shall exercise its powers to transfer such later petition as if it had been empowered so to do under the said Code.

*40B Special provision relating to trail and disposal of petitions under the Act.*—(1) The trial of a petition under this Act shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion unless the court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(2) Every petition under this Act shall be trted as expeditiously as possible, and endeavour shall be made to conclude the trial within six months from the date of service of notice of the Petition on the respondent.

(3) Every appeal under this Act shall be heard as expeditiously as possible, and endeavour shall be made to concluye the hearing within three months from the date of service of notice of appeal on the respondent.

*40C. Documentry evidence.*—Notwithstanding anything contained in any enactment to the contrary, no document shall be in admissible in evidence in any proceeding at the trial of a petition under this Act on the ground that it is not duly stamped or registered."

*Special provision as to pending casei. 39.* (*1*).—All petitions and proceedings in causes and matters matrimonial which are pending in any court at the commencement of the Marriage Laws (Amendment) Act, 1976, shall be dealt with and decided by such court.—

(*i*) if it is a petition or proceeding under the Hindu Marriage Act, then so far as may be, as if it had been originally instituted therein under the Hindu Marriage Act, as amended by this Act;

(*ii*) if it is a petition or proceeding under the Special Marriage Act, then so far as may be, as if it had been originally instituted therein under the Special Marriage Act, as amended by this Act.

(2) In every petition or proceeding to which sub-section (*1*) applies, the court in which the petition or proceeding is pending shall give an opportunity to the parties to amend the pledings, in so far as such amendment is necessary to give effect to the provisions of sub-section (1), within such time as it may allow in this behalf and any such amendment may include an amendment for conversion of a petition or proceeding for judicial separation into a petition or proceeding, as the case may be, for divorce.

K. K. SUNDARAM,
*Secy. to the Govt. of India.*

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

NOTIFICATION

*No. LAW 51 LCA 1976, Bangalore dated 8th July 1976.*

Ordered that the Contempt of Court (Amendment) Act, 1976 (Central Act No. 45 of 1976) published in Part II, Section I of the *Gazette of India*, Extraordinary dated 30th March 1976 be republished in the *Karnataka Gazette*, for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

39 *Under Secy. to Govt. Dept. of Law and Parly. Affairs.*

ASSENTED TO ON 30TH MARCH 1976

ACT NO. 45 OF 1976

## THE CONTEMPT OF COURTS (AMENDMENT) ACT, 1976.

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT

*to amend the Contempt of Courts Act, 1971.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Contempt of Courts (Amendment) Act, 1976.

2. **Amendment of section 15.**—In the Contempt of Courts Act, 1971, (70 of 1971) in section 15, in sub-section (1),—

(i) in clause (b), the word "or" shall be inserted at the end;

(ii) after clause (b) as so amended, the following clause shall be inserted, namely :—

"(c) in relation to the High Court for the Union territory of Delhi, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf, or any other person, with the consent in writing of such Law Officer."

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

NOTIFICATION

No. LAW 50 LCA 76, *Bangalore, dated 8th July 1976*

Ordered that the Workmen's Compensation (Amendment) Act, 1976 (Central Act No. 65 of 1976), published in Part II, Section I of the *Gazette of India* Extraordinary, dated 22nd May 1976, be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

38 *U. Secy. to Govt., Dept. of Law and Parly. Affairs.*

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

*New Delhi, the 22nd May 1976/Jyaistha 1, 1898 (Saka)*

The following Act of Parliament received the assent of the President on the 21st May, 1976, and is hereby published for General Information :—

## THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 1976

No. 65 OF 1976

[*21st May 1976*]

An Act further to amend the Workmen's Compensation Act, 1923.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Workmen's Compensation (Amendment) Act, 1976.

(2) Section 2 and 4 shall be deemed to have come into force on the 1st day of October, 1975 and the remaining provisions shall come into force at once.

2 **Amendment of section 2.**—In section 2 of the Workmen's Compensation Act, 1923 (8 of 1923), (hereinafter referred to as the principal Act), in sub-section (1), in sub-clause (ii) of clause (n), for the words "five hundred rupees", the words "one thousand rupees shall be substituted.

3 **Amendment of section 36.**—In section 36 of the principal Act, for the words "two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

4 **Substitution of new Schedule for Schedule IV.**—For Schedule IV to the principal Act, the following Schedule shall be substituted, namely :—

"SCHEDULE IV

(*See* section 4)

COMPENSATION PAYABLE IN CERTAIN CASES

| Monthly wages of the workman injured | | Amount of compensation for— | | Half-monthly payment as compensation for temporary disablement |
|---|---|---|---|---|
| | | Death | Permanent total disablement | |
| 1 | | 2 | 3 | 4 |
| More than | But not more than | | | |
| Rs. | Rs. | Rs. | Rs. | Rs. P. |
| 0 | 60 | 7,200 | 10,080 | Half his monthly wages |
| 60 | 90 | 9,720 | 14,608 | 36.00 |
| 90 | 120 | 11,520 | 16,128 | 42.00 |
| 120 | 150 | 13,500 | 18,900 | 48.75 |
| 150 | 200 | 16,800 | 23,520 | 60.00 |
| 200 | 300 | 18,000 | 25,200 | 82.50 |
| 300 | 400 | 19,200 | 26,880 | 100.00 |
| 400 | 500 | 21,000 | 29,400 | 118.75 |
| 500 | 600 | 21,600 | 30,240 | 135.00 |
| 600 | 700 | 23,100 | 32,340 | 148.75 |
| 700 | 800 | 24,000 | 33,600 | 160.00 |
| 800 | 900 | 27,000 | 37,800 | 168.75 |
| 900 | 1,000 | 30,000 | 42,000 | 175.00" |

K. K. SUNDARAM,
*Secy. to the Govt of India.*

## DEPARTMENT OF LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT.

### NOTIFICATION

*No. LAW 49 LCA 76, Bangalore, dated 8th July 1976.*

Order that the Warehousing Corporation (Amendment) Act, 1976 (42 of 1976) published in Part II, Section I of the Gazette of India, Extraordinary dated 25th March 1976 be republished in the *Karnataka Gazette* for General information.

By Order and in the name of the Governor of Karnataka

B. NAGESHA RAO,
*Under Secy. to Govt., Dept. of Law and Parly. Affairs*

Assented to an 24-3-76] ]Act No. 42 of 1976

## THE WAREHOUSING CORPORAI

## ıct, 1976

## An

## Act,

*further to amend the Warehousing Corporations Act, 1962*

BE it enacted by parliament in the Twenty-Seventh Year of the Republic of India as follows :—

**1. Short title:** This Act may be called the Warehousing Corporations (Amendment) Act, 1976.

**2. Amendment of Section 2.**—In Section 2 of the Warehousing Corporations Act, 1962 (58 of 1962), (hereinafter referred to as the principal Act),—

(*a*) after clause (*d*), the following clause shall be inserted, namely:—

'(*dd*) "nationalised bank" means a corresponding new bank" specified in the first Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;'; (5 of 1970).

(*b*) in clause (*i*), the words, "and includes a nationalised bank, shall be inserted at the end.

3. **Amendment of Section 4.**—In Section 4 of the principal Act,—

(*a*) in sub-section (*1*), the following proviso shall be inserted at the end, namely :—

"Provided that the Central Government may, from time to time, by order notified in the official Gazette, increase the authorised share capital of the Central Warehousing Corportion to such extent and in such manner as that Government may determine." ;

(*b*) in sub-section (*2*), in the opening sentence, for the words "The Central Government shall", the words "The Central Government shall, after due appropriation made by Parliament by law for the purpose," shall be substituted ;

(*c*) in sub-section (*4*), for the words "the State Bank, any schedule bank", the words "the State Bank or any other scheduled bank" shall be substituted.

4. **Amendment of Section 16**.—In Section 16 of the principal Act, in sub-section (*2*), after clause (*b*), the following clauses shall be inserted namely :—

"(*c*) for meeting the expenses incurred in relation to the training of personnel, or publicity and propaganda, for the purpose of promoting warehousing and storage of agricultural produce and notified commodities;

(*d*) for meeting the expenses, including the salary, allowances and other remuneration of the officers and other employees, incurred in relation to the administration of the Warehousing Fund.".

5. **Amendment of Section 17**.—In section 17 of the principal Act, in sub-section (*2*), the following proviso shall be inserted at the end, namely:—

"Provided that the General Fund shall not be applied for meeting the expenses referred to in clause (*c*) or clause (*d*) of sub-section (2) of section 16.".

6. **Amendment of Section 19**.—In Section 19 of the principal Act, in sub-section (*1*), the following proviso shall be inserted at the end namely :—

"Provided that in respect of any State Warehousing Corporation the Central Government may, after consultation with the State Government concerned, from time to time and by order notified in the Official Gazette, increase the maximum limit of the authorised capital aforesaid to such extent and in such manner as the Central Government may determine.".

7. **Amendment of Section 27**.—In Section 27 of the principal Act, in sub-section (2),—

(a) in clause (ii), for the words and figures "the State Bank of India Act, 1955.", the words and figures "the State Bank of India Act, 1955, or " shall be substitued ;

(b) after clause (ii), the following clauses shall be inserted, namely:—

"(iii) from any nationalised bank or

(iv) from such insurance company, investment trust or other financial institution as may be approved by the Central Government in this behalf".

8. **Amendment of Section 28.**—In section 28 of the principal Act,—

(a) after the words "the State Bank", the words "or any nationalised bank" shall be inserted ;

(b) for the words "any scheduled bank" the words "any scheduled bank" shall be substituted.

9. **Insertion of new Section 31A.**—In Chapter IV of the principal Act, after Section 31, the following section shall be inserted, namely:—

**Returns and Reports.**—"31A. A Warehousing Corporation shall furnish to the appropriate Government such returns, statistics, accounts and other information with respect to its property or activities as that Government may, from time time, require".

10. **Amendment of Section 41.**—In Section 41 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (e), for the words, brackets and figures "within the limit specified in sub-section (1) of Section 19", the words, brackets and figures "within the maximum limit specified by or under sub-section (1) of Section 19" shall be substituted ;

(ii) clause (i) shall be re-lettered as clause (j), and before clause (j) as so re-lettered, the following clause shall be inserted, namely:—

"(i) the form and manner in which returns, statistics, accounts and other information are to be furnished, under Section 31A, by a Warehousing Corporation" ;

(b) in sub-section (3), for the words, "if, before the expiry of the session in which it is so laid", the words "if before the expiry of the session immediately following the session" shall be substituted.

## GOVERNMENT OF KARNATAKA

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

**Notification No. LAW 47 LCA 76, Bangalore, dated the 30th June 1976**

Ordered that the Finance Act 1976 (Central Act No. 66 of 1976) published in Part II, Section I of the **Gazette of** in the **Karnataka Gazette** for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
Under Secretary to Government,
Dept. of Law and Parly. Affairs.

## GOVERNMENT OF INDIA

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

**(Legislative Department)**

New Delhi, the 27the May, 1976/Jyaistha 6, 1898 (Saka)

The following Act of Parliament received the assent of the President on the 27th May, 1976, and is hereby published for general information :—

### THE FINANCE ACT, 1976

No. 66 of 1976

[27th May, 1976]

An Act to give effect to the financial proposals of the Central Government for the financial year 1976-77.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

### CHAPTER I

**Preliminary**

**1. Short title and commencement.**—(1) This Act may be called the Finance Act, 1976.

(2) Save as otherwise provided in this Act, Sections 2 to 30 and Section 43 shall be deemed to have come into force on the 1st day of April, 1976.

## CHAPTER II

### Rates of Income-Tax

2. **Income-tax.**—(1) Subject to the provisions of sub-sections (2), (3) and (4), for the assessment year commencing on the 1st day of April, 1976, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which Paragraphs E and F of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income, in addition to total income, and the total income exceeds eight thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax), only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows :—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount by which income-tax determined in accordance with sub-clause (i) exceeds the amount of income-tax determined in accordance with sub-clause (ii) shall be the income-tax chargeable in respect of the total income.

(3) Where in the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, (31 of 1956) the total income includes any profits and gains from life insurance business' the income-tax payable by it shall be the aggregate of the income-tax calculated—

(i) on the amount of profit and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business ; and

(ii) on the remaining part of its total income, at the rate applicable to the company on its total income.

(4) In cases to which the provisions of Chapter XII or section 164 of the Income-tax Act, 1961 (43 of 1961) (hereafter referred to as the Income--tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(6) Subject to the provisions of sub-section (7), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the

case may be, "advance tax" shall be so calculated, charged, deducte or computed at the rate or rates specified in Part III of the Firs Schedule;

Provided that in cases to which the provisions of Chapter XII o section 164 of the Income-tax Act apply, "advance tax" shall be com puted with reference to the rates imposed by this sub-section or th rates as specified in that Chapter or section as the case may be:

Provided further that an assessee, being a company, may, in lieu o payment of surcharge on income-tax at the rate specified in Paragrapl E of Part III of the First Schedule, make a deposit under the schem framed under sub-section (8) before the last instalment of advance ta is due in its case, and where it does so,—

(i) in a case where the amount of the deposit so made is equa to or exceeds the amount of surcharge on income-tax payable by it, th amount of surcharge on income-tax payable by it shall be

(ii) in a case where the amount of the deposit so made falls shor of the amount of surcharge on income-tax payable by it, the amoun of surcharge on income-tax payable by it shall stand reduced by th amount of the deposit; and

(iii) any order made by the Income-tax Officer under sectio 210 of the Income-tax Act and the notice of demand issued in pursuanc thereof shall have effect as if the amount of surcharge on income-ta specified therein has been reduced to **nil** or, as the case may be, b the amount of the deposit.

(7) In the cases to which Sub-Paragraph I or Sub-Paragraph II o Paragraph A of Part III of the First Schedule applies, where the assesse has, in the previous year or, if by virtue of any provision of the Income tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any ne agricultural income, in addition to total income, and the total income exceeds eight thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 o section 175 or sub-section (2) of section 176 of the said Act or in com puting the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net

agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows :—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income:

(iii) the amount by which income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (i) exceeds the amount of income-tax or "advance tax" determined in accordance with sub-clause (ii) shall be the income-tax or "advance tax", in respect of the total income.

(8) Where an assessee, being a company, makes, during the financial year commencing on the 1st day of April, 1976, any deposit with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964) under any such scheme as the Central Government may, by notification in the Official Gazette, frame in this behalf, then, the surcharge on income-tax payable by the company for the assessment year commencing on the 1st day of April, 1977,—

(i) in a case where the amount of deposit so made is equal to or exceeds the amount of surcharge on income-tax payable by it, shall be nil; and

(ii) in a case where the amount of the deposit so made falls short of the amount of surcharge on income-tax payable by it, shall be reduced by the amount of the deposit.

(9) For the purposes of this section and the First Schedule,—

(a) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act;

(b) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1976, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act;

(c) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining.

**Explanation.**—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VIA of the Income-tax Act) is not less than fifty-one per cent of such total income;

(d) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(e) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(f) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(g) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

## CHAPTER III

## DIRECT TAXES

### Income-tax

**3. Amendment of Section 2.**—In the Income-tax Act, in section 2, with effect from the 1st day of June, 1976,—

(a) after clause (28), the following clause shall be inserted namely;

'(28A) "interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;';

(b) in clause (37A), in sub-clause (i),—

(i) for the words and figures "in a case not falling under section 164", the words, figures and letters "in a case not falling under section 115A or section 115B or section 164" shall be substituted;

(ii) for the words and figures "in a case falling under section 164, the rate specified in that section", the words, figures and letters "in a case falling under section 115A or section 115B or section 164, the rate or rates specified in section 115A or section 115B or, as the case may be, section 164" shall be substituted.

**4. Amendment of section 9.**—In the Income-tax Act, in section 9, in sub-section (1), with effect from the 1st day of June, 1976,—

(a) in clause (i), the words "or through or from any money lent at interest and brought into India in cash or in kind" shall be omitted;

(b) after clause (iv), the following clauses shall be inserted, namely:—

'(v) income by way of interest payable by—

(a) the Government; or

(b) a person who is a resident, except where the interest is payable in respect of any debt incurred or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India; or

(c) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India;

(vi) income by way of royalty payable by—

(a) the Government; or

(b) a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India; or

(c) a person who is a non-resident, where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person in India or for the purposes of making or earning any income from any sources in India:

Provided that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property, if such income is payable in pursuance of an agreement made before the 1st day of April 1976 and the agreement is approved by the Central Government.

**Explanation 1.**—For the purposes of the foregoing proviso, an agreement made on or after the 1st day of April, 1976 shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date; so, however, that, where the recipient of the income by way of royalty is a foreign company, the agreement shall not be deemed to have been made before that date unless, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assesment year commencing on the 1st day of April, 1977, or the assessment year in respect of which such income first becomes

chargeable to tax under this Act, whichever assessment year is later, the company exercises an option by furnishing a declaration in writing to the Income-tax Officer (such option being final for that assessment year and for every subsequent assessment year) that the agreement may be regarded as an agreement made before the 1st day of April, 1976.

**Explanation 2.**—For the purposes of this clause, " royalty " means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head " Capital gains ") for—

(i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property ;

(ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property ;

(iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property ;

(iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill ;

(v) the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for the sale, distribution or exhibition of cinematographic films : or

(vi) the rendering of any services in connection with the activities referred to in sub-clauses (i) to (v) ;

(vii) income by way of fees for technical services payable by—

(a) the Government : or

(b) a person who is a resident, except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or

(c) a person who is a non-resident, where the fees are payable in respect of services utilised in a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India.

**Explanation.**—For the purposes of this clause, "fees for technical services" means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salaries'

**5. Amendment of section 10.**—In section 10 of the Income-tax Act,—

(a) in clause (6), after sub-clause (x), the following sub-clause shall be inserted, namely :—

"(xi) the remuneration received by him as an employee of the Government of a foreign State during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by,—

(i) the Government; or

(ii) any company in which the entire paid-up share capital is held by the Central Government, or any State Government or Governments, or partly by the Central Government and partly by one or more State Governments; or

(iii) any company which is a subsidiary of a company referred to in item (ii); or

(iv) any corporation established by or under a Central, State or Provincial Act; or

(v) any society registered under the Societies Registration Act, 1860 (14 of 1860) or under any other corresponding law for the time being in force and wholly financed by the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments; ";

(b) in clause (15), after item (e) of sub-clause (iv), the following item shall be inserted with effect from the 1st day of June, 1976, namely :—

'(f) by an industrial undertaking in India on any moneys borrowed by it in foreign currency from sources outside India under

a loan agreement approved by the Central Government having regard to the need for industrial development in India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.

**Explanation.**—For the purposes of this item, the expression " foreign M. No. New 4—B.R.Y.—Dated 15-7-76— P.R. 35 currency " shall have the meaning assigned to it in the Foreign Exchange Regulation Act, 1973 (46 of 1973) ; ' ;

(c) in clause (17), for the words " any Committee thereof ; ", the words, brackets and figures "any Committee thereof or any allowance received by a member of either House of Parliament under the Members of Parliament (Additional Facilities) Rules, 1975;" shall be substituted.

**6. Amendment of section 13.**—In section 13 of the Income-tax Act, in sub-section (5) [as directed to be inserted by clause (iii) of section 5 of the Taxation Laws (Amendment) Act, 1975 (41 of 1975)] for clause (a) (iii) the following clause shall be substituted with effect from the 1st day of April 1977, namely :—

"(iii) deposit in any account with the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or any nationalised bank, that is to say, any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) ; ".

**7. Amendment of section 32.**—In section 32 of the Income-tax Act, in sub-section (1),—

(1) in clause (iv), for the words "seven thousand five hundred rupees ", the words " ten thousand rupees " shall be substituted with effect from the 1st day of April, 1977 ;

(2) in clause (vi),—

(a) for the words " any one or more of the articles or things specified in the list in the Ninth Schedule ", the words, figures and brackets "any one or more of the articles or things specified in items 1 to 24 (both inclusive) in the list in the Ninth Schedule " shall be substituted ;

(b) in the second proviso,—

(i) in clause (a), the word "and" shall be omitted;

(ii) in clause (b), the word "and" shall be inserted at the end;

(iii) after clause (b), the following clause shall be inserted, namely :—

"(c) any ship or aircraft acquired after the 31st day of March, 1976 or any machinery or plant installed after that date.".

**8. Insertion of new section 32A.**—After section 32 of the Income-tax Act, the following section shall be inserted, namely :—

'32A. **Investment allowance.**—(1) In respect of a ship or an aircraft or machinery or plant specified in sub-section (2), which is owned by the assessee and is wholly used for the purposes of the business carried on by him, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, in respect of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, of a sum by way of investment allowance equal to twenty-five per cent of the actual cost of the ship, aircraft, machinery or plant to the assessee :

Provided that no deduction shall be allowed under this section in respect of—

(a) any machinery or plant installed in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house ;

(b) any office appliances or road transport vehicles ;

(c) any ship, machinery or plant in respect of which the deduction by way of development rebate is allowable under section 33 ; and

(d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year.

(2) The ship or aircraft or machinery or plant referred to in sub-section (1) shall be the following, namely :—

(a) a new ship or new aircraft acquired after the 31st day of March, 1976 by an assessee engaged in the business of operation of ships or aircraft

(b) any new machinery or plant installed after the 31st day of March, 1976—

(i) for the purposes of business of generation or distribution of electricity or any other form of power ; or

(ii) for the purposes of business of construction, manufacture or production of any one or more of the articles or things specified in the list in the Ninth Schedule ; or

(iii) in a small-scale industrial undertaking for the purposes of business of manufacture or production of any other articles or things.

**Explanation.**—For the purposes of this sub-section and sub-section (4),—

(1) "new ship" or "new aircraft" or "new machinery or plant" shall have the same meanings as in the Explanation to clause (vi) of sub-section (1) of section 32 ;

(2) an industrial undertaking shall be deemed to be a smallscale industrial undertaking, if the aggregate value of the machinery and plant (other than tools, jigs, dies and moulds) installed, as on the last day of the previous year, for the purposes of the business of the undertaking does not exceed ten lakh rupees ; and for this purposes the value of any machinery or plant shall be,—

(a) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee ; and

(b) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant.

(3) Where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, or, as the case may be, the immediately succeeding previous year [the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VIA] is nil or is less than the full amount of the investment allowance,—

(i) the sum to be allowed by way of investment allowance for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to nil ; and

(ii) the amount of the investment allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the investment allowance to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to nil, and the balance of the investment allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the investment allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, as the case may be, the immediately succeeding previous year.

**Explanation.**—Where for any assessment year, investment allowance is to be allowed in accordance with the provisions of this sub-section in respect of any ship or aircraft acquired or any machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assesment year [the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VIA] is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely :—

(a) the allowance under clause (ii) shall be made before any allowance under clause (i) is made ; and

(b) where an allowance has to be made under clause (ii) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(4) The deduction under sub-section (1) shall be allowed only if the following conditions are fulfilled, namely :—

(i) the particulars prescribed in this behalf have been furnished by the assessee in respect of the ship or aircraft or machinery or plant

(ii) an amount equal to seventy-five per cent of the investment allowance to be actually allowed is debited to the profit and loss account

of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the " Investment Allowance Reserve Account ") to be utilised—

(a) for the purposes of acquiring, before the expiry of a period of ten years next following the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clause (a), (b) and (d) of the proviso to sub-section (1)] for the purposes of the business of the undertaking ; and

(b) until the acquisition of a new ship or a new aircraft or new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India :

Provided that this clause shall have effect in respect of a ship as if for the word " seventy-five ", the word " fifty " had been substituted.

**Explanation.**—Where the amount debited to the profit and loss account and credited to the Investment Allowance Reserve Account under this sub-section is not less than the amount required to be so credited on the basis of the amount of deduction in respect of investment allowance claimed in the return made by the assessee under section 139, but a higher deduction in respect of the investment allowance is admissible on the basis of the total income as proposed to be computed by the Income-tax Officer under section 143, the Income-tax Officer shall, by notice in writing in this behalf, allow the assessee an opportunity to credit within the time specified in the notice or within such further time as the Income-tax Officer may allow, a further amount to the Investment Allowance Reserve Account out of the profits and gains of the previous year in which such notice is served on the assessee or of t ehimmediately preceding previous year, if the accounts for that year have not been made up ; and, if the assessee credits any further amount to such account within the time aforesaid, the amount so credited shall be deemed to have been credited to the Investment Allowance Reserve Account of the previous year in which the deduction is admissible and such amount shall not be taken into account in determining the adequacy of the reserve required to be credited by the assessee in respect of the previous year in which such further credit is made :

Provided that such opportunity shall not be allowed by the Income-tax Officer in a case where the difference in the total income as proposed to be computed by him and the total income as returned by the assessee arises out of the application of the proviso to sub-section (1) of section 145 or sub-section (2) of that section or the omission by the assessee to disclose his income fully and truly.

(5) Any allowance made under this section in respect of any ship aircraft, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act—

(a) if the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed ; or

(b) if at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clauses(a), (b) and (d) of the proviso to sub-section (1)] for the purposes of the business of the undertaking ; or

(c) if at any time before the expiry of the ten years aforesaid the assessee utilises the amount credited to the reserve account under sub-section (4) for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India or for any other purpose which is not a purpose of the business of the undertaking.

and the provisions of sub-section (4A) of section 155 shall apply accordingly :

Provided that nothing in clause (a) shall apply—

(i) where the ship aircraft, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act 1956 (of 1956) ; or

(ii) where the sale or transfer of the ship, aircraft, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (6) or sub-section (7)

(6) Where in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any ship, aircraft, machinery or plant, in respect of which investment allowance has been allowed to the amalgamating company under sub-section (1),—

(a) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (4) in respect of the reserve created by the amalgamating company and in respect of the period within which such ship, aircraft, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (4A) of section 155, shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and

(b) the balance of investment allowance, if any, still outstanding to the amalgamating company in respect of such ship, aircraft, machinery or plant, shall be allowed to the amalgamated company in accordance with the provisions of sub-section (3), so, however, that the total period for which the balance of investment allowance shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (3) and the amalgamated company shall be treated as the assessee in respect of such ship, aircraft, machinery or plant for the purposes of this section.

(7) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, aircraft, machinery or plant, the provisions of clause (a) and (b) of sub-section (6) shall, so far as may be, apply to the firm and the company.

**Explanation.**—The provisions of this sub-section shall apply only where—

(i) all the property of the firm relating to the business immediately before the succession becomes the property of the company;

(ii) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(8) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed in respect of any ship or aircraft acquired or any machinery or plant installed after such date, not being earlier than three years from the date of such notification, as may be specified therein.

(9) For the removal of doubts, it is hereby declared that the deduction under sub-section (1) shall not be denied by reason only that the amount debited to the profit and loss account of the relevant previous year and credited to the Investment Allowance Reserve Account exceeds the amount of the profit of such previous year (as arrived at without making the debit aforesaid), in accordance with the profit and loss account.'.

**9. Amendment of section 37.**— In section 37 of the Income-tax Act,

(a) in sub-section (2A),—

(i) in clause (i), for the words, figures a section 33A", the words, figures and letters "section 32A or section 33 or section 33A" shall be substituted;

(ii) in the **Explanation**, the words, brackets, figure and letter "and sub-section (2B)" shall be omitted with effect from the 1st day of April, 1977;

(b) sub-section (2B) shall be omitted with effect from the 1st day of April, 1977.

**10. Insertion of new sections 44C and 44D.**—In the Income-tax Act, in Chapter IV-D, after section 44B, the following sections shall be inserted, with effect from the 1st day of June, 1976, namely :—

'44C. **Deduction of head office expenditure in the case of non-residents.**—Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, no allowance shall be made, in computing the income chargeable under the head "Profits and gains of business or profession", in respect of so much of the expenditure in the nature of head office expenditure as is in excess of the amount computed as hereunder, namely :—

(a) an amount equal to five per cent, of the adjusted total income; or

(b) an amount equal to the average head office expenditure; or

(c) the amount of so much of the expenditure in the nature of head office expenditure incurred by the assessee as is attributable to the business or profession of the assessee in India,

whichever is the least:

Provided that in a case where the adjusted total income of the assessee is a loss, the amount under clause (a) shall be computed at the rate of five per cent of the average adjusted total income of the assessee.

**Explanation.**—For the purposes of this section,—

(i) "adjusted total income" means the total income computed in accordance with the provisions of this Act, without giving effect to the allowance referred to in this section or in sub-section (2) of section 32 or the deduction referred to in section 32A or section 33 or section 33A or the first proviso to clause (ix) of sub-section (1) of section 36 or any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74 or sub-section (3) of section 74A or the deductions under Chapter VIA;

(ii) "average adjusted total income" means,—

(a) in a case where the total income of the assessee is assessable for each of the three assessment years immediately preceding the relevant assessment year, one-third of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid three assessment years;

(b) in a case where the total income of the assessee is assessabl only for two of the aforesaid three assessment years, one half of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid two assessment years;

(c) in a case where the total income of the assessee is assessable only for one of the aforesaid three assessment years, the amount of the adjusted total income in respect of the previous year relevant to that assessment year;

(iii) "average head office expenditure" means,—

(a) in a case where any expenditure in the nature of head office expenditure has been allowed as a deduction in computing the income of the assessee chargeable under the head "Profits and gains

of business or profession" in respect of each of the three previous years relevant to the assessment years commencing on the 1st day of April, 1974, the 1st day of April, 1975 and the 1st day of April, 1976, one-third of the aggregate amount of the expenditure so allowed;

(b) in a case where such expenditure has been so allowed only in respect of two of the aforesaid three previous years, one-half of the aggregate amount of the expenditure so allowed;

(c) in a case where such expenditure has been so allowed only in respect of one of the aforesaid three previous years, the amount of the expenditure so allowed;

(iv) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—

(a) rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business or profession;

(b) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;

(c) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and

(d) such other matters connected with executive and general administration as may be prescribed.

44D. **Special provisions for computing income by way of royalties etc., in the case of foreign companies.**—Notwithstanding anything to the contrary contained in Sections 28 to 44C, in the case of an assessee, being a foreign company,—

(a) the deductions admissible under the said sections in computing the income by way of royalty or fees for technical services received from an Indian concern in pursuance of an agreement made by the foreign company with the Indian concern before the 1st day of April, 1976, shall not exceed in the aggregate twenty per cent, of the gross amount of such royalty or fees as reduced by so much of the gross amount of such royalty as consists of lump sum consideration for the transfer outside India of, or the importing of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property;

(b) no deduction in respect of any expenditure or allowance shall be allowed under any of the said sections in computing the income by way of royalty or fees for technical services received from an Indian concern in pursuance of an agreement made by the foreign company with the Indian concern after the 31st day of March, 1976.

**Explanation.**—For the purposes of this section,—

(a) "fees for technical services" shall have the same meaning as in Explanation to clause (vii) of sub-section (1) of section 9;

(b) "foreign company" shall have the same meaning as in section 80B;

(c) "royalty" shall have the same meaning as in the Explanation to clause (vi) of sub-section (1) of section 9;

(d) royalty received from an Indian concern in pursuance of an agreement made by a foreign company with the Indian concern after the 31st day of March, 1976 shall be deemed to have been received in pursuance of an agreement made before the 1st day of April, 1976 if such agreement is deemed, for the purposes of the proviso to clause (vi) of sub-section (1) of section 9 to have been made before the 1st day of April, 1976.'.

**11. Amendment of section 47.**—In section 47 of the Income-tax Act, after clause (viii), the following clause shall be inserted with effect from the 1st day of April, 1977, namely:—

'(ix) any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing painting, photograph or print, to the Government or a University or the National Museum, National Art Gallary, National Archive or any such other public museum or institution as may be notified by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.

**Explanation.**—For the purposes of this clause, "University" means University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (8 of 1956), to be a University for the purposes of that Act.'.

**12. Omission of section 54C.**—Section 54C of the Income-tax Act shall be omitted.

**13. Amendment of section 57.**—In section 57 of the Income-tax Act, the following proviso and **Explanation** shall be inserted at the end, with effect from the 1st day of June, 1976, namely :—

'Provided that nothing contained in clause (i) or clause (iii) shall apply in computing the income by way of dividends in the case of an assessee, being a foreign company.

**Explanation.**—For the purposes of this section and section 58, "foreign company" shall have the same meaning as in section 80B.'.

**14. Amendment of section 58.**—In section 58 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, with effect from the 1st day of June, 1976, namely :—

'(3) In the case of an assessee, being a foreign company, the provisions of section 44D shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".'.

**15. Amendment of section 80A.**—In section 80A of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted with effect from the 1st day of April, 1977, namely :—

"(4) Notwithstanding anything contained in sub-section (1), no deduction under section 80G or section 80GG or section 80HH or section 80J or section 80L or section 80QQ shall be allowed in computing the total income of an assessee, being a Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to tax.

**16. Amendment of section 80C.**—In section 80C of the Income-tax Act, in clause (d) of sub-section (2), for the words "eight thousand rupees", the words "ten thousand rupees" shall be substituted with effect from the 1st day of April, 1977

**17. Amendment of section 80G.**—In section 80G of the Income-tax Act,—

(a) for sub-section (1), the following sub-section shall be substituted effect from the 1st day of April, 1977, namely :—

"(1) In computing the total income of an assessee, there shall

be deducted, in accordance with and subject to the provisions of this section,—

(i) in a case where the aggregate of the sums specified in sub-section (2) includes any sum specified in sub-clause (vii) of clause (a) thereof, an amount equal to the whole of such sum plus fifty per cent, of the balance of such aggregate; and

(ii) in any other case, an amount equal to fifty per cent of the aggregate of the sums specified in sub-section (2).";

(b) in clause (a) of sub-section (2), with effect from the 1st day of April, 1977,—

(i) in sub-clause (v), for the words "for any charitable purpose;", the words "for any charitable purpose other than the purpose of promoting family planning; or" shall be substituted;

(ii) after sub-clause (v), the following sub-clauses shall be inserted, namely:—

"(vi) any authority referred to in clause (20A) of section 10; or

(vii) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilised for the purpose of promoting family planning;";

(c) in sub-section (4), for the words, brackets and figures "sub-clauses (iv) and (v)", the words, brackets and figures "sub-clauses (iv), (v), (vi) and (vii)" shall be substituted with effect from the 1st day of April, 1977;

(d) after Explanation 4, the following Explanation shall be inserted, namely:—

"Explanation 5.—For the removal of doubts, it is hereby declared that no deduction shall be allowed under this section in respect of any donation unless such donation is of a sum of money.".

**18. Amendment of section 80M.**—In section 80M of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 1977, namely:—

"(1) Where the gross total income of an assessee, being a domestic company, includes any income by way of dividends from a domestic company, there shall, in accordance with and subject to the provisions

of this section, be allowed, in computing the total income of the assessee, a deduction from such income by way of dividends of an amount equal to—

| | |
|---|---|
| (a) in respect of such income by way of dividends from a company formed and registered under the Companies Act, 1956 (1 of 1956) after the 28th day of February, 1975 and engaged exclusively or almost exclusively in the manufacture or production of any one or more of the articles or things specified in items 2 and 3, item 4 (excluding alloy, malleable and S.G. iron castings, items 7 to 15 (both inclusive), items 17 and 18, item 23 (excluding refractories) and items 24, 26, 27 and 29 in the list in the Ninth Schedule. | the whole of such income; |
| (b) in respect of such income by way of dividends other than the dividends referred to in clause (a). | sixty per cent of such income.". |

**19. Amendment of section 115.**—In section 115 of the Income-tax Act, in clause (i) with effect from the 1st day of April 1977,—

(a) in sub-clause (a) (1), for the words "forty-seven per cent.", the words "forty per cent." shall be substituted;

(b) in sub-clause (a) (2), for the words "fifty-five per cent." the words "fifty per cent" shall be substituted; and

(c) in sub-clause (b), for the words "forty-five per cent." the words "forty per cent." shall be substituted.

**'20. Insertion of new sections 115A and 115B.**—In the Income-tax Act, after section 115, the following sections shall be inserted with effect from the 1st day of June 1976, namely:—

**'115A. Tax on dividends, royalty and technical service fees in the case of foreign companies.**—(1) Subject to the provisions of sub-section (2), where the total income of an assessee, being a foreign company, includes any income by way of

(a) dividends; or

(b) royalty or fees for technical services received from an Indian company,

with the Indian concern after the 31st day of March, 1976 and approved by the Central Government,
the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the amount of income by way of dividends, if any, included in the total income, at the rate of twenty-five per cent. ;

(ii) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income—

(1) on so much of the amount of such income as consists of lumpsum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property at the rate of twenty per cent ;

(2) on the balance of such income, if any, at the rate of forty per cent. ;

(iii) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of forty per cent.; and

(iv) the amount of income-tax with which it would have been chargeable had its total income been reduced by the amount of income referred to in clause (a) and clause (b).

**Explanation.**—For the purposes of this section,—

(a) " fees for technical services " shall have the same meaning as in the **Explanation** to clause (vii) of sub-section (1) of section 9 ;

(b) " foreign company " shall have the same meaning as in section 80B ;

(c) " royalty " shall have the same meaning as in the **Explanation** to clause (vi) of sub-section (1) of section 9.

(2) Nothing contained in sub-section (1) shall apply in relation to any income by way of royalty received by a foreign company from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1976 if such agreement is deemed, for the purposes of the proviso to clause (vi) of sub-section (1) of section 9, to have been made before the 1st day of April, 1976 ; and the provisions of the annual Finance Act for calculating, charging,

deducting or computing income-tax shall apply in relation to such income as if such income had been received in pursuance of an agreement made before the 1st day of April, 1976

**115B. Tax on profits and gains of life insurance business.**—Where the total income of an assessee includes any profits and gains from life insurance business, the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated on the amount of profits and gains of the life insurance business included in the total income at the rate of twelve and one-half per cent; and

(ii) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of profits and gains of the life insurance business.'.

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**21. Amendment of section 155.**—In section 155 of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted, namely :—

'(4A) Where an allowance by way of investment allowance has been made wholly or partly to an assessee in respect of a ship or an aircraft or any machinery or plant in any assessment year under section 32A and subsequently—

(a) at any time before the expiry of eight years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956, (1 of 1956) or in connection with any amalgamation or succession referred to in sub-section (6) or sub-section (7) of section 32A; or

(b) at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) of section 32A for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred

to in clauses (a), (b) and (d) of the proviso to sub-section (1) of section 32A] for the purposes of the business of the undertaking; or

(c) at any time before the expiry of the ten years referred to in clause (b), the assesse utilise the amount credited to the reserve account under sub-section (4) of section 32A—

(i) for distribution by way of dividends or profits; or

(ii) for remittance outside India as profits or for the creation of any asset outside India; or

(iii) for any other purpose which is not a purpose of the business of the undertaking.

the investment allowance originally allowed shall be deemed to have been wrongly allowed, and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned,—

(i) in a case referred to in clause (a), from the end of the previous year in which the sale of other transfer took place;

(ii) in a case referred to in clause (b), from the end of the ten years referred to in that clause;

(iii) in a case referred to in clause (c), from the end of the previous year in which the amount was utilised.

**Explanation.**—For the purposes of clause (b), "new ship" or "new aircraft" or "new machinery or plant" shall have the same meanings as in the Explanation to clause (vi) of sub-section (1) of section 32.'.

**22. Amendment of section 195.**—In the Income-tax Act, in section 195, in sub-section (2), for the words "other than interest including interest on securities", the words "other than interest on securities" shall be substituted with effect from the 1st day of June, 1976.

**23. Amendment of First Schedule.**—In the First Schedule to the Income-tax Act, with effect from the 1st day of April, 1977.—

(a) for rule 2, the following rule shall be substituted, namely:—

"2. **Computation of profits of life insurance business.**—The profits and gains of life insurance business shall be taken to be the annual

average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938 (4 of 1938), in respect of the last inter valuation period ending before the commencement of the assessment year, so as to exclude from it any surplus or deficit included therein which was made in any earlier intervaluation period." ;

(b) rule 3 shall be omitted ;

(c) in rule 7, in sub-rule (1), clauses (i) and (iii) shall be omitted.

**24. Amendment of Eighth Schedule.**—In the Eighth Schedule to the Income-tax Act,—

(a) against **Bihar** in column (1), for the existing areas specified in column (2), the following shall be substituted, namely :—

"The districts of Aurangabad, Begusarai, Bhagalpur, Bhojpur, Darbhanga, East Champaran, Gaya, Madhubani, Monghyr, Muzaffarpur,Nalanda, Nawadah, Palamau, Purnea, Saharsa, Samastipur, Santal Pargans, Sarn,Sitamarhi, Siwan, Vaishali and West Champaran." ;

(b) against Punjab in column (1), for the existing areas specified in column (2), the following shall be substituted, namely :—

" The district of Bhatinda; so much of the district of Faridkot as formed part of the district of Bhatinda on the 31st day of July, 1972 ; the districts of Ferozepur, Gurdaspur, Hoshiarpur and Sangrur.";

(c) after Rajasthan in column (1) and the entries relating thereto, the following shall be inserted, namely :—

"**Sikkim** The whole of the State.";

(d) against Uttar Pradesh in column (1), for the existing areas specified in column (2), the following shall be substituted, namely :—

" he districts of Almora, Azamgarh, Baharaich, Ballia, Banda, Bara Banki, Basti, Budaun, Bulandshahr, Chamoli, Deoria ; Etah, Etawah, Faizabad, Farrukhabad, Fatehpur, Garhwal, Ghazipur, Gonda, Hamirpur, Hardoi, Jalaun, Jaunpur, Jhansi, Manipuri, Mathura, Moradabad, Philibhit, Pithoragarh, Pratapgarh, Rae Bareli, Rampur, Shahjahanpur, Sitapur, Sultanpur, Tehri-Garhwal, Unnao and Uttarkashi." ;

(e) for the **Explanation,** the following **Explanation** shall be substituted, namely :—

"**Explanation.**—Save as otherwise expressly provided, reference to any district in this Schedule shall be construed,—

(i) in the case of the districts of Aurangabad, Begusarai, Bhojpur, Gaya, Monghyr, Nalanda and Nawadah in the State of Bihar; the district of Ferozepur in the State of Punjab; and the district of Rampur in the State of Uttar Pradesh, as a reference to the areas comprised in the district concerned on the 15th day of March, 1976, being the date of introduction of the Finance Bill, 1976 in the House of the People; and

(ii) in the case of any other district, as a reference to the areas comprised in that district on the 3rd day of September, 1973, being the date of introduction of the Direct Taxes (Amendment) Bill, 1973 in the House of the People.".

**25. Amendment of Ninth Schedule.**—In the Ninth Schedule to the Income-tax Act,—

(a) for item 4, the following item shall be substituted, namely :—

" 4. Steel castings and forgings and alloy, malleable and S. G. iron castings. " ;

(b) after item 24 and before the **Explanation,** the following items shall be inserted, namely :—

" 25. Carbon and graphite products.

26. Inorganic heavy chemicals (other than soda ash and caustic soda mentioned in items 12 and 13 respectively).

27. Organic heavy chemicals.

28. Synthetic rubber and rubber chemicals (including carbon black).

29. Industrial explosives.

30. Basic drugs.

31. Industrial sewing machines.

32. Finished leather and leather goods (including footwear made wholly or mainly of leather).'

**26. Consequential amendments to certain sections.**—The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, namely :—

(a) in section 45, the figures and letter, " 54C " shall be omitted ;

(b) in clause (iv) of sub-section (2) of section 141A, for the words, brackets and figures " the deduction referred to in clause (ii) of sub-section (2) of section 33 ", the words, brackets, figures and letter " the deduction referred to in clause (ii) of sub-section (3) of section 32A or clause (ii) of sub-section (2) of section 33 " shall be substituted ;

(c) in sub-clause (iv) of clause (b) of sub-section (1) of section 143, for the words, brackets and figures " the deduction referred to in clause (ii) of sub-section (2) of section 33 ", the words, brackets, figures and letter " the deduction referred to in clause (ii) of sub-section (3) of section 32A or clause (ii) of sub-section (2) of section 33 " shall be substituted ;

(d) in clause (i) of sub-section (1) of section 160, the words, brackets and figure " clause (i) of " shall be omitted with effect from the 1st day of June, 1976 ;

(e) in the Ninth Schedule, for the brackets, words and figures " [See section 32(1)(vi) ] ", the brackets, words, figures and letters " [See section 32 (1) (vi) and section 32A (2) (b) (ii) ] " shall be substituted.

**Wealth-tax.**

**27. Amendment of Act 27 of 1957.**—In the Wealth-tax Act, 1957,—

(1) in section 3, for the words " at the rate or rates specified in the Schedule ", the words and figure " at the rate or rates specified in Schedule I " shall be substituted with effect from the 1st day of April, 1977 ;

(2) in section 5, in sub-section (1),-

(a) after clause (ivb), the following clause shall be inserted with effect from the 1st day of April, 1977, namely :—

' (ivc) one or more dwelling units (each such dwelling unit having a plinth area not exceeding eighty square metres) and the land appurtenant thereto, belonging to the assessee, where the construction of such dwelling unit or units is begun on or after the 1st day of April 1976 ;

Provided that this exemption shall apply in respect of any dwellin unit or units and the land appurtenant thereto only for a period o five successive assessment years next following the date on which th construction of such dwelling unit or units is completed.

**Explanation.**—For the purposes of this clause,—

(a) "dwelling unit" means a unit of accommodation used solel for the purpose of residence;

(b) "land appurtenant" in relation to any dwelling unit or unit comprising a building, means,—

(i) in an area where there is any law in force providing for th minimum extent of land contiguous to the land occupied by an building to be kept as open space for the enjoyment of such buildin the minimum extent of land contiguous to the land occupied by th building comprising such dwelling unit or units required to be kept a open space under such law;

(ii) in any other area, an extent of land not exceeding one-thir of the plinth area of the building comprising the dwelling unit or unit at the ground level contiguous to the land accupied by such building;'

(b) after clause (x), the following clause shall be inserted and sha be deemed to have been inserted with effect from the 1st day of Apri 1975, namely :—

"(xa) the amount of any fee due to the assessee in respect o services rendered by him as a legal practitioner within the meaning o the Advocates Act, 1961;"; (25 of 1961.)

(c) after clause (xxx), the following clause shall be inserte namely :—

'(xxxa) the value of any building belonging to the assesse where the building is used solely for the purpose of residence o persons employed by the assessee in any plantation or industri undertaking belonging to the assessee and the income of each suc person chargeable under the head "Salaries" under the Income-ta Act is ten thousand rupees or less;';

(d) in the **Explanation** to clause (xxxi),—

(i) for the words "this clause", the words, brackets, figures an letter "clause (xxxa), this clause" shall be substituted;

(ii) for the words, brackets and figures "and clause (xxxii)", the words, brackets and figures "clause (xxxii) and clause (xxxiv)" shall be substituted with effect from the 1st day of April, 1977 ;

(e) after clause (xxxii), the following clauses shall be inserted with effect from the 1st day of April, 1977, namely :—

"(xxxiii) in the case of an assessee, being a person of Indian origin who was ordinarily residing in a foreign country and who, on leaving such country, has returned to India with the intention of permanentaly residing therein, moneys and the value of assets brought by him into India and the value of the assets acquired by him out of such moneys ;

Provided that this exemption shall apply only for a period of seven successive assessment years commencing with the assessment year next following the date on which such person returned to India.

**Explanation.**—A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India ;

(xxxiv) in the case of an individual, being a citizen of India, who is not resident in India during the year ending on the valuation date, the value of any equity shares in any company of the type referred to in clause (d) of section 45 which is engaged in the business of manufacture or production of any one or more of the articles or things specified in Schedule II or which is certified by the prescribed authority to have undertaken the export of such percentage of its total production as may be specified in this behalf by the prescribed authority, where such shares form part of the initial issue of the equity share capital made by the company after the 31st day of March, 1976 or where such shares form part of an issue of equity share capital which is certified by the prescribed authority to have been made by the company after the 31st day of March, 1976 for the purposes of expansion or diversification of its industrial undertaking.

**Explanation.**—An individual shall be deemed to be not resident in India during the year ending on the valuation date if in respect of that year the individual is not resident in India within the meaning of the Income-tax Act ".

(3) in section 7,—

(a) in sub-section (3), for the words "the valuation date"; the words, brackets and figures "the valuation date, or, in the case of an asset being a house referred to in sub-section (4), the valuation date referred to in that sub-section" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

'(4) Notwithstanding anything contained in sub-section (1), the value of a house belonging to the assessee and exclusively used by him for residential purposes throughout the period of twelve months immediately preceding the valuation date may, at the option of the assessee, be taken to be the price which, in the opinion of the Wealth-tax Officer, it would fetch if sold in the open market on the valuation date next following the date on which he became the owner of the house, or on the valuation date relevant to the assessment year commencing on the 1st day of April, 1971, whichever valuation date is later:

Provided that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of this sub-section shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf in the return of net wealth.

**Explanation.**—For the purposes of this sub-section—

(i) where the house has been constructed by the assessee, he shall be deemed to have become the owner thereof on the date on which the construction of such house was completed;

(ii) "house" includes a part of a house, being an independent residential unit';

(4) in section 21, in sub-section (4), for the words "the Schedule" at both the places where they occur, the word and figure "Schedule I" shall be substituted with effect from the 1st day of April, 1977;

(5) in section 21A, in clause (a), for the words "the Schedule", the word and figure "Schedule I" shall be substituted with effect from the 1st day of April, 1977;

(6) the Schedule shall be numbered as Schedule I with effect from the 1st day of April, 1977 and with effect from that date—

(a) in the Schedule as so numbered, for Part I, the following Part shall be substituted, namely:—

"PART I

(1) In the case of every individual or Hindu undivided family, not being a Hindu undivided family to which item (2) of this Paragraph applies,—

| | *Rate of* | *exceeds* |
|---|---|---|
| a) Where the net wealth does not Rs. 5,00,000 | ½ per cent. | of the net wealth; |
| b) Where the net wealth exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 2,500 *plus* 1½ per cent. | of the amount by which the net wealth exceeds Rs. 5,00,000; |
| c) Where the net wealth exceeds Rs 10,00,000 but does not exceed Rs. 15,00,000 | Rs. 10,000 *plus* 2 per cent. | of the amount by which the net wealth exceeds Rs. 100,00,000; |
| d) Where the net wealth exceeds Rs. 15,00,000 | Rs. 20,000 *plus* 2½ per cent | of the amount by which the not wealth exceeds Rs. 15,00,000 |

Provided that for the purposes of this item,—

(i) no wealth-tax shall be payable where the net wealth does not exceed Rs. 1,00,000;

(ii) the wealth-tax payable shall, in no case, exceed 5 per cent of the amount by which the net wealth exceeds Rs. 1,00,000.

(2) In the case of every Hindu undivided family which has at least one member whose net wealth assessable for the assessment year exceeds Rs. 1,00,000.

| | *Rate of Tax* |
|---|---|
| (a) Where the net wealth does not exceed Rs. 5,00,000 | 1½ per cent. of the net wealth |
| (b) Where the net wealth exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 7,500 *plus* 2½ per cent. of the amount by which the net wealth exceeds Rs. 5,00,000; |
| (c) Where the net wealth exceeds Rs. 10,00,000 | Rs. 17,5000 *plus* 2½ per cent, of the amount by which the net wealth exceeds Rs 10,00,0 |

Provided that for the purposes of this item,—

(i) no wealth-tax shall be payable where the net wealth does not exceed Rs. 1,00,000.

(ii) the wealth-tax payable shall, in no case, exceed 5 per cent of the amount by which the net wealth exceeds Rs. 1,00,000.";

(b) after the Schedule as so numbered, the following Schedule shall be inserted, namely :—

SCHEDULE II

[See section 5(1) (xxxiv)]

**List of Articles or Things**

1. Ferro alloys; steel castings and forgings; special steels; and non-ferrous metals and their alloys.

2. Boilers and Steam Generating Plants.

3. Prime Movers (other than Electrical Generators), being industrial turbines or internal combustion engines.

4. Equipment for transmission and distribution of electricity; electrical motors; electrical furnaces; X-ray equipment; and electronic components and equipment.

5. Mechanised sailing vessels up to 1000 DWT; ship ancillaries; and commercial vehicles.

6. Industrial machinery.

7. Machine tools.

8. Agricultural machinery,

9. Earth-moving machinery.

10. Industrial instruments, being indicating recording and regulating devices for pressure, temparature, rate of flow, weights, levels and the like.

11. Scientific instruments.

12. Nitrogenous and phosphatic fertilisers falling under "(1) Inorganic fertilisers" mentioned under the heading "18. Fertilisers" in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951).

13. Chemicals (other than fertilisers), namely :—

(1) Inorganic heavy chemicals.

(2) Organic heavy chemicals.

(3) Fine chemicals including photographic chemicals.

(4) Synthetic resins and plastics.

(5) Synthetic rubbers.

(6) Man-made fibres.

(7) Industrial explosive

(8) Insecticides, fungicides, weedicides and the like.

(9) Synthetic detergents.

(10) Miscellaneous chemicals (for industrial use only).

14. Drugs and pharmaceuticals.

15. Paper and pulp including paper products.

16. Automobile tyres and tubes.

17. Plate glass.

18. Ceramics, being refractories or furnace lining bricks—acidic, basic and neutral.

19. Cement products being portland cement or asbestos cement.'.

**Gift-tax**

**28. Amendment of Act 18 of 1958.**—In section 5 of the Gift-tax Act, 1958, in clause (iv) of sub-section (1), after the words "local authority", the words, brackets, figures and letter "or any authority referred to in clause (20A) of section 10 of the Income-tax Act" shall be inserted with effect from the 1st day of April, 1977.

**Surtax**

**29. Amendment of Act 7 of 1964.**—In the Companies (Profits) Surtax Act, 1964,—

(a) in section 2, in clause (8), for the words "ten per cent", at both the places where they occur, the words "fifteen per cent" shall be substituted with effect from the 1st day of April, 1977;

(b) in the First Schedule, in rule 3, for the portion beginning with the words "by the aggregate of—" and ending with the brackets, figures and words "(ii) any expenditure", the words "by the amount of any expenditure" shall be substituted with effect from the 1st day of April, 1977;

(c) in the Second Schedule,

(i) in rule 1—

(1) in clause (ii), for the words, brackets and figures "sub-section (3) of section 34", the words, brackets, figures and letter "sub-

section (4) of section 32A, or sub-section (3) of section 34" shall be substituted with effect from the 1st day of April, 1977; and

(2) clauses (iv) and (v) shall be omitted with effect from the 1st day of April, 1977;

(ii) after rule 1, the following rule shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1975, namely:—

'1A. Where a company has not made any credit in any account in its books as on the first day of the previous year relevant to the assessment year which is of the nature of item (8) or item (9) under the heading "CURRENT LIABILITIES AND PROVISIONS" in the column relating to "LIABILITIES" in the "FORM OF BALANCE-SHEET", given in Part I of Schedule VI to the Companies Act, 1956 (1 of 1956), or where the Income-tax Officer is of opinion that the amount credited in such account falls short of the amount which should have reasonably been credited by it, the amount of its capital as computed under rule 1 shall be reduced by the amount which has not been so credited or, as the case may be, the amount of such shortfall.

**Explanation.**—For the purposes of this rule, the amount of credit which should have reasonably been made by a company in relation to any account of the nature of item (9) aforesaid, means the amount of dividend declared or paid by the company, on or after the first day of the previous year relevant to the assessment year, for the previous year immediately preceding the first mentioned previous year.';

(iii) in rule 2, in clause (i), the brakets, words and figures "[other than the debentures referred to in clause (iv) or moneys referred to in clause (v) of rule 1]" shall be omitted with effect from the 1st day of April, 1977;

(iv) in rule 3, for the words, brackets and figures "or issue of the debentures referred to in clause (iv), or borrowing of any moneys referred to in clause (v), of rule 1 or is reduced by any amount on account of reduction of paid-up share capital or redemption of such debentures or repayment of any such moneys,", the words "or is reduced by any amount on account of reduction of paid-up share capital," shall be substituted with effect from the 1st day of April, 1977.

**Interest-ta:**

**of 1974.**—In section 2 of the Interest-ta: Act, 1974, in clause (7), with effect from the 1st day of April 1977,—

(a) in sub-clause (i), the word "and" shall be omitted;

(b) in sub-clause (ii), the word "and" shall be inserted at the end

(c) after sub-clause (ii), the following sub-clause shall be inserted namely :—

"(iii) interest on moneys lent for the creation of a capital asse in India where the agreement under which such moneys are len provides for the repayment thereof during a period of not less tha: seven years;'

## CHAPTER IV

## Indirect Taxes

**31. Amendment of Act 32 of 1934.**—The Indian Tariff Act, 193 (hereinafter referred to as the Tariff Act) shall be amended in th manner specified in the Second Schedu

**32. Auxiliary duties of customs.**—(1) In the case of goods mentione in the First Schedule to the Tariff Act, or in that Schedule as amende from time to time, there shall be levied and collected as an auxiliar duty of customs an amount equal to twenty per cent of the value o the goods as determined in accordance with the provisions of section 1 of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as th Customs Act) :

Provided that on and from the date on which the Customs Tari Act, 1975 (51 of 1975), comes into force, this sub-section shall hav effect subject to the modification that for the words "First Schedul to the Tariff Act", the words and figures "First Schedule to th Customs Tariff Act, 1975" (51 of 1975) shall be substituted.

(2) Sub-section (1) shall cease to have effect after the 30th day o June, 1977, except as respects things done or omitted to be done befor such cesser, and section 6 of the General Clauses Act, 1897 (10 o 1897) shall apply upon such cesser as if the said sub-section had the been repealed by a Central Act.

(3) The auxiliary duties of customs referred to sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(4) The provisions of the Customs Act, and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

**33. Amendment of Act 1 of 1949.**—In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures "1976", the figures "1977" shall be substituted.

**34. Amendment of Act 51 of 1975.**—The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), shall be amended in the manner specified in the Third Schedule.

**35. Amendment of Act 1 of 1944.**—The Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), shall be amended in the manner specified in the Fourth Schedule.

**36. Auxiliary duties of excise.**—(1) In the case of goods mentioned in the First Schedule to the Central Excises Act, or in that Schedule as amended from time to time, there shall be levied and collected as as an auxiliary duty of excise an amount equal to twenty per cent of the value of the goods as determined in accordance with the provisions of section 4 of the Central Excises Act.

(2) Sub-section (1) shall cease to have effect after the 30th day of June, 1977, except as respects things done or omitted to be done before such cesser, and section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The auxiliary duties of excise referred to in sub-section (1) shall be in addition to any duties of excise chargeable on such goods under the Central Excises Act, or any other law for the time being in force.

(4) The auxiliary duties of excise leviable under sub-section (1) in the financial year 1975-76 shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States

(5) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those, as the case may be.

**37. Amendment of Act 58 of 1957.**—The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), shall be amended in the manner specified in the Fifth Schedule.

**38. Discontinuance of salt duty.**—For the year beginning on the 1st day of April, 1976, no duty under the Central Excises Act or the Tariff Act or the Customs Tariff Act shall be levied in respect of salt manufactured in, or imported into, India.

**39. Amendment of Act 16 of 1955.**—In the Medicinal and Toilet Preparations (Excise Duties) Act, 1955,—

(a) for the words "opium, Indian hemp or other narcotic drug or narcotic", wherever they occur, the words "narcotic drug or narcotic" shall be substituted;

(b) in section 2,—

(i) after clause (a), the following clauses shall be inserted, namely :—

'(aa) "coca derivative" means—

(i) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;

(ii) ecgonine, that is, laevo-ecgonine having the chemical formula $C_9 H_{15} NO_3 H$ and all the derivatives of laevo-ecgonine from which it can be recovered; and

(iii) cocaine, that is, methyl-benzoyl-laevo-ecgonine having the chemical formula $C_{17} H_{21} NO_4$, and its salts:

(ab) "coca leaf" means—

(i) the leaf and young twigs of any coca plant, that is, of the Erythroxylon coca (Lamk.) and the Erythroxylon novo-granatense (Hiern.) and their varieties, and of any other species of this genus

which the Central Government may, by notification in the Official Gazette, declare to be coca plants for the purposes of this Act; and

(ii) any mixture thereof, with or without neutral materials;';

(ii) after clause (b), the following clause shall be inserted, namely :—

'(bb) "derivative of opium" means—

(i) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use;

(ii) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;

(iii) morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17}$, $H_{19}$, $NO_3$, and its salts, and its derivatives;';

(iii) for clause (e), the following clause shall be substituted, namely :—

'(e) "Indian hemp" means—

(i) the leaves, small talks and flowering or fruiting tops of the Indian hemp plant (Cannabis sativa L.), including all form known as **bhung, siddhi** or **ganja;**

(ii) **charas,** that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

(iii) any mixture, with or without neutral materials, of any of the above forms of Indian hemp or any drink prepared therefrom; and

(iv) any extract or tincture of any of the above forms of Indian hemp;';

(iv) for clause (h), the following clause shall be substituted, namely :—

'(h) "narcotic drug" or "narcotic" means a substance which is a coco leaf or coca derivative, or opium, or derivative of opium, or Indian hemp and shall include any other substance, capable

of causing or producing in human beings dependence, tolerance and withdrawal syndromes and which the Central Government may, by notification in the Official Gazette, declare to be a narcotic drug or narcotic;';

(c) the Schedule shall be amended in the manner specified in the Sixth Schedule.

## CHAPTER V

## MISCELLANEOUS

**40. Amendment of Act 2 of 1899.**—In the Indian Stamp Act, 1899, in Schedule-I, in teh column headed 'Proper Stamp-duty', with effect from the 1st day of June, 1976,—

(a) in article No. 37, for the words "Fifteen nave naise", the words "One rupee" shall be substituted;

(b) in article No. 52, for the words "Fifteen naye paise", the words "Thirty paise" shall be substituted;

(c) in article No. 53, for the words "Ten naye paise", the words "Twenty paise" shall be substituted.

**41. Amendment of Act 31 of 1956.**—After section 43 of the Life Insurance Corporation Act, 1956, the following section shall be inserted with effect from the 1st day of June, 1976, name

"43A. **Deduction of income-tax not to be made on interest or dividend.**—Notwithstanding anything contained in section 193 or section 194 of the Income-tax Act, 1961 (43 of 1961), no deduction of income-tax shall be made on any interest or dividend payable to the Corporation in respect of any securities or shares owned by it or in which it has full beneficial interest.".

**42. Amendment of Act 52 of 1963.**—In section 32 of the Unit Trust of India Act, 1963, in clause (b) of sub-section (1), for sub-clause (ii), the following sub-clause shall be substituted with effect from the 1st day of April, 1977, namely:—

"(ii) a Hindu undivided family, not being a Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to income-tax under the Income-tax Act, 1961 (43 of 1961), or"

**43. Amendment of Act 38 of 1974.**—In the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.—

(a) in section 3, in sub-section (1), for the words, figures and letters " and the assessment year commencing on the 1st day of April, 1976.", the words, figures and letters ", the assessment year commencing on the 1st day of April, 1976 and the assessment year commencing on the 1st day of April, 1977." shall be substituted ;

(b) in section 4, in sub-section (1), for the words " a compulsory deposit for that assessment year at the rates specified in the Schedule.", the following shall be substituted, namely :—

" a compulsory deposit, —

(i) for the assessment year commencing on the 1st day of April, 1975 and the assessment year commencing on the 1st day of April, 1976, at the rates specified in Paragraph A of the Schedule ; and

(ii) for the assessment year commencing on the 1st day of April, 1977, at the rates specified in Paragraph-B of the Schedule." ;

(c) in the Schedule,—

(i) below the words **" Rates of Compulsory Deposit "** the word and letter **" Paragraph-A "** shall be inserted ; and

(ii) for the provisos, the following shall be substituted, namely :—

**" Paragraph-B**

| | |
|---|---|
| (1) Where the current income exceeds Rs 15,000 but does not exceed Rs. 25 000 | 4 per cent of the current income; |
| (2) Where the current income exceeds Rs. 25,000 but does not exceed Rs 70,000 | Rs. 1,000 *plus* 10 per cent of the amount by which the current income exceeds Rs. 25,000 ; |
| (3) Where the current income exceeds Rs. 70,000 | Rs. 5,500 *plus* 12 per cent, of the amount by which the current income exceeds Rs. 70,000 : |

Provided that in a case (whether falling under Paragraph-A or Paragraph B)—

(a) where the current income exceeds Rs. 15,000 but does not exceed Rs. 15,620, the compulsory deposit shall in no case exceed the amount by which the current income exceeds Rs. 15,000 ;

(b) where the amount of compulsory deposit calculated in accordance with the foregoing provisions is less than Rs. 100 it shall not be necessary for the depositor concerned to make such deposit,".

## FIRST SCHEDULE

### PART–I

*See* Section 2)

D SURCHARGE ON INCOME-TAX

**Paragraph A**

**Sub-Paragraph I**

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies

**Rates of income-tax**

| | |
|---|---|
| (1) where the total income does not exceed Rs. 8,000 | **Nil** |
| (2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000 | 17 per cent of the amount by which the total income exceeds Rs. 8,000 ; |
| (3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000 | Rs. 1,190 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 15,000 ; |
| (4) where the total income exceeds Rs. 20,000 but does not exceeds Rs. 25,000 | Rs. 2,190 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000 |
| (5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000 | Rs. 3,690 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 25,000; |
| (6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000 | Rs. 5,690 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 30,000 ; |
| (7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000 | Rs. 15,690 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 50,000 ; |
| (8) where the total income exceeds Rs. 70,000 | Rs. 27,690 *plus* 70 per cent. of the amount by which the total income exceeds Rs. 70.000. |

**Surcharge on income-tax**

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent, of such income-tax.

**Sub-Paragraph II**

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day April 1976 exceeds Rs. 8,000 —

**Rates of income-tax**

| | |
|---|---|
| (1) where the total income does not exceed Rs. 8,000. | Nil ; |
| (2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000 | 20 per cent, of the amount by which the total income exceeds Rs. 8,000; |
| (3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000 | Rs. 1,400 *plus* 30 per cent of the amount by which the total income exceeds Rs. 15,000; |
| (4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000 | Rs 2,900 *plus* 40 per cent, of the amount by which the total income exceeds Rs. 20,000; |
| (5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000 | Rs. 4,900 *plus* 50 per cent, of the amount by which the total income exceeds Rs. 25,000; |
| (6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000 | Rs. 7,400 *plus* 60 per cent, of the amount by which the total income exceeds Rs 30,000; |
| (7) where the total income exceeds Rs. 50,000 | Rs. 19,400 *plus* 70 per cent of the amount by which the total income exceeds Rs, 50,000. |

**Surcharge on income-tax**

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent, of such income-tax

### Paragraph B

In the case of every co-operative society.–

**Rates of income-tax**

| | |
|---|---|
| (1) where the total income does not exceed Rs. 10,000 | 15 per cent, of the total income; |
| (2) where the total income exceed Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,500 *plus* 25 per cent, of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,0( | Rs.4,000 *plus* 40 per cent, of the amount by which the total income exceeds Rs. 20,000. |

**surcnarge on income-tax**

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

### Paragraph C

**Sub-Paragraph**

In the ease of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies

**Rates of income-t**

| | |
|---|---|
| (1) where the total income does not exceeed Rs. 10, 000 | Nil |
| (2) where the total income exceeds Rs. 10, 000 but does not exceed Rs. 25, 000 | per cent of the amount by which the income exceeds Rs. 10. 000; |
| (3) where the total income exceeds Rs. 25, 000 but does not exceed Rs. 50, 000 | Rs. 750 *plus* 7 per cent of the amount by which the total income exceeds Rs. 25, 000; |
| (4) where the total income exceeds Rs. 50 000 but does not exceed Rs. 1, 00, 000 | Rs, 2, 500 *plus* 15 per cent. of the amount by which the total income dxceeds Rs. 50, 000; |
| (5) where the to[illegible] Rs. 1. 00. 000 | Rs, 10, 000 *plus* 24 per cent, of the amount by which the total income |

**Surcharge on income tax**

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of suchi ncome-tax.

**Sub-Paragraph II**

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included as not less than fifty-one per cent of such total income.—

**Rates of income-tax**

| | |
|---|---|
| (1) where the total income does not exceed Rs. 10, 000 | Nil; |
| (2) where the total income exceeds Rs. 10, 000 but does not exceed Rs. 25,000 | 4 per cent, of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 25, 000 but does not exceed Rs. 50,000 | Rs. 600 *plus 7* per cent. of the amount by which the total income exceeds Rs. 25,000; |
| (4) where the total income exceeds Rs. 50, 000 but does not exceed Rs. 1,00000, | Rs. 2,350 *plus 13* per cent of the amount by which the total income exceeds Rs. 50,000; |
| (5) where the total income exceeds Rs. 1, 00, 000 | Rs. 8,850 *plus 22* per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

**Surcharge on income-tax**

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

*Explanation.*—For the purposes of this Paragraph, "registered firm', includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

**Paragraph D**

In the case of every local authority,—

**Rate of income-tax**

On the whole of the total income 50 per cent.

**Surcharge on income-tax**

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income tax.

**Paragraph E**

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, (31 of 1956.)—

| | **Rates of income-ta** |
|---|---|
| (i) on that part of its total income which consists of profits and gains from life insurance business. | 5z.o per cent,; |
| (ii) on the balance [illegible] of the total income. | The rate of income-tax appblicable in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested. |

**Surcharge on income-tax**

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated that the rate of five per cent. of such income-tax.

**Paragraph F**

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—(31 of 1956):

**Rate of income-tax**

[illegible] domestic company,-

(I) where the company is a company in which the public are substantially interested,—

| | |
|---|---|
| (i) in a case where total income does not exceed Rs. Rs. 1,00,000 | 45 per cent. of the total income; |
| (ii) in a case where the total income | 55 per cent of the total |

(2) Where the company is not a company on which the public are substantially interested,—

| | |
|---|---|
| (i) in the case of an industrial company,— | |
| (a) where the total income does not exceed Rs. 2,00,000 | 55 per cent of the total income ; |
| (b) where the total income exceeds Rs. 2,00,000 | 60 per cent of the total income ; |
| (ii) in any other case | 65 per cent of the total income ; |

Provided that—

(i) the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs 1,00,000 (the income of Rs. 1.00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company) ; and

(b) eighty per cent of the amount by which its total income exceeds Rs. 1,00,000 ;

(ii) the income-tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs. 2,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 2,00,000 (the income of Rs. 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company) ; and

(b) eighty per cent of the amount by which its total income exceeds Rs. 2,00,000.

II. In the case of a company other than a domestic company—

| | |
|---|---|
| (i) on so much of the total income as consists of— | |
| (a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or | |
| (b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964. | |

and where such agreement has, in 50 per cent ;
either case, been appro
Central Government

(ii) on the balance, if any, of the 70 per cer
total income

**Surcharge on income-tax**

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax.

## PART II

**Rate for deduction of tax at source in certain cases**

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates :—

| | Income-tax | |
|---|---|---|
| | Rate of income-tax | Rate of surcharge |
| 1. In the case of a person other han a company— | | |
| (a) where the person is resident in ndia— | | |
| (i) on income by way of interest ther than "Interest on securities" | | |
| (ii) on income by way of winning rom lotteries and crossword puzzels | 30 per cent. | 3 per cent. |
| (iii) on income by way of insurance ommission. | 10 per cent. | Nil ; |
| (iv) on any other income (exclu- ling interest payable on a tax-free ecurity) | 21 per cent. | 2 per cent. |
| (b) where the person is not resi- lent in India— | | |
| (i) on the whole income exeluding nterest payable on a tax free security) | Income-tax at 50 per cent. and surcharge at 3 per- cent of tl the income | |

| | | |
|---|---|---|
| | | income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher ; |
| (ii) on income by way of interest payable on a tax-free security | 15 per cent | 1.5 per cent. |
| 2. In the case of a company— | | |
| (a) where the company is a domestic company— | | |
| (i) on income by way of interest other than "Interest on securities" | 20 per cent. | 1 per cent. ; |

| | Income-tax | |
|---|---|---|
| | Rate of income-tax | Rate of surcharge |
| (ii) on any other income (excluding interest payable on a tax-free security) | 22 percent. | 1 per cent. |
| (b) where the company is not a domestic company - | | |
| (i) on income by way of dividends payable by any domestic company | 25 percent. | Nil, |
| (ii) on income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern and which has been approved by the Central Government,— | | |
| (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 | 50 percent. | 2 5 percent; |
| (B) where the agreement is made after the 31st day of March, 1976— | | |
| (1) on so much of the amount of such income as consists of lum sum consideration for the transfer outside India of, or the imparting of, information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, or trade mark or similar property | 20 percent. | N |

| | Income-tax | |
|---|---|---|
| | Rate of income-tax | Rate of surcharge |
| (2) on the balance, if any, of such income | 40 percent. | Nil; |
| (iii) on income by way of fees for technical services payable by an Indian concern in pursuance of an agreement made by it with the Indian concern and which has been approved by the Central Government— | | |
| (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April 1976 | 50 percent. | 3.5 percent; |
| (B) where the agreement is made after the 31st day of March, 1976 | 40 percent. | Nil; |
| (iv) on income by way of interest payable on a tax-free security | 44 percent. | 2.2 percent; |
| (v) on any other income | 70 percent. | 3.5 percent; |

## PART III

**Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries or any payment referred to in sub-section (9) of section 80E and computing "advance tax."**

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be "advance tax" (not being "advance tax" in respect of any income chargeble to tax under Chapter XII or Section 164 of the Income tax Act at the rates as specified in that Chapter or section), shall be so calculated, charged, deducted or computed at the following rate or rates :—

### Paragraph A

### Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical

person referred to in sub-clause (vi) of clause (31) of Section 2 o the Income-tax Act, not being a case to which Sub-Paragraph II o this Paragraph or any other Paragraph of this Part applies,—

**Rates of income-tax**

| | |
|---|---|
| (1) Where the total income dose not exceed Rs. 8,000 | Nil |
| (2) where the total income exceeds Rs. 8,000 but dose not exceed Rs. 15,000 | 15 per cent. of the amoun by which the total in come exceeds Rs. 8,000 |
| (3) Where the total income exceed Rs. 15,000 but dose not exceed Rs. 20,000 | Rs. 1,050 *plus* 18 per cen of the amount by whicl the total incoame exceed Rs. 15,000 ; |
| (4) where the total income exceeds Rs. 20,000 but dose not exceeds Rs. 25,000 | Rs. 1,950 *plus* 25 per cent of the amount by whicl the total income exceed Rs. 20,000 ; |
| (5) Where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000 | Rs. 3,200 Plus 30 per cen of the amount by whicl the total income exceed Rs. 25,000; |
| (6) Where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000 | Rs. 4,700 Plus 40 per cent of the amount by which the total income exceeds Rs. 30,000 ; |
| (7) Where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000 | Rs. 12,700 Plus 50 per cent of the amount by which the toals income exceeds Rs. 50,000 ; |
| (8) Where the total income exceeds Rs. 70,000 but does not exceed Rs. 1,00,000 | Rs 22,700 Plus 55 per cent of the amount by which the total income exceeds Rs. 70,000 ; |
| (9) Where the total income exceeds Rs. 1,00,000 | Rs. 39,200 Plus 60 percent of the amount by which the total income exceeds Rs. 1,00,000. |

**Surcharge on income tax**

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten percent of such income-tax.

### Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1977 exceeds Rs. 8,000,—

### Rates of income-tax

| | |
|---|---|
| (1) where the total income does not exceed Rs. 8,000 | Nil |
| (2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000 | 18 per cent of the amount by which the total income exceeds Rs. 8,000; |
| (3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 2,0000 | Rs. 1,260 plus 25 per cent. of the amount by which the total income exceeds Rs. 15,000; |
| (4) where the tatal income exceeds Rs. 20,000 but does not exceed Rs. 25,000 | Rs. 2,510 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000; |
| (5) whe there total income exceeds Rs. 25,000 but does not exceeds Rs. 30,000 | Rs 4,010 Plus 40 per cent of the amount by which the total income exceeds Rs. 25,000; |
| (6) where the total income exceeds Rs. 30,000 but not exceeds Rs. 50,000 | Rs. 6,010 Plus 50 per cent of the amount by which the total income exceeds Rs. 30,000; |
| (7) where the total income exceeds Rs. 50,000 but does not exceeds Rs. 70,000 | Rs. 16,010 Plus 55 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (8) [illegible] Rs. 70,000 | Rs. 27,010 Plus 60 per cent of the amount by which the total income exceeds Rs. 70,000. |

### Surcharge on income-tax

The amount of income tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purpose of the Union calculated at the rate of 10 per cent. of such income-tax.

### Paragraph B

In case of every co-operative society

**Rate ofs income-tax**

| | |
|---|---|
| (1) where the total income does not exceed Rs. 10,000 | 15 per cent of the total income |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs 20,000 | Rs. 1,500 Plus 25 per cent of the amount by which the total income exceeds Rs. 10,000 |
| (3) where the total income exceeds Rs. 20,000 | Rs. 4,000 Plus 40 per cent. of the amount by which the total income exceeds Rs. 20,000. |

**Sureharge on income-tax**

The amount of income-tax computed in accordance with preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

**Paragraph C**

**Sub-paragraph-1**

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

**Rates of income-tax**

| | |
|---|---|
| (1) where the total income does not exceeds Rs. 10 000 | Nil ; |
| (2) where the total income exceeds Rs. 10,000 but does not exceeds Rs. 25,000 | 5 per cent of the amount by which the total income exceeds Rs.10,000 |
| (3) where the total income exceeds Rs. 25,000 but does not exceeds Rs. 50,000 | Rs. 750 Plus 7 per cent of the amount by which the total income exceeds Rs. 25,000 ; |
| (4) where the total income exceeds Rs. 50,000 but does not exceeds Rs. 1,00,000 | Rs. 2,500 Plus 15 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (5) where the total income exceeds Rs. 1,00,000 | Rs. 10,000 Plus 24 per cent of the amount by which the total income exceeds Rs. 1,00,000. |

**Surcharge on income-tax**

The amount of income-tax computed in accordanee with the preceding provision of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

### Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent, of such total income.—

#### Rates of income-tax

| | |
|---|---|
| (1) where the total income does not exceed Rs. 10,000 | Nil |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 | 4 per cent. of the amount which the total income exceeds Rs. 10,000 ; |
| (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 | Rs. 600 plus 7 per cent of the amount by which the total income exceeds Rs. 25,000; |
| (4) where the total income exceeds Rs. 50,000 but does not exceeds Rs. 1,00,000 | Rs. 2,350 plus 13 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (5) where the total income exceeds Rs. 1,00,000 | Rs. 8,850 plus 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

#### Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this sub-paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Explanation.—For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

### Paragraph D

In the case of every local authority,—

#### Rate of income-tax

On the whole of the total income 50 per cent.

#### Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent, of such income-tax.

### Paragraph E

In the case of a company,—

**Rates of income-tax**

I. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested,—

| | |
|---|---|
| (i) in a case where the total income does not exceed Rs. 1,00,000 | 45 per cent. of the total income ; |
| (ii) in a case where the total income exceeds Rs. 1,00,000 | 55 per cent total income ; |

(2) where the company is not a company in which the public are substantially interested,—

(i) in the case of an industrial company,—

| | |
|---|---|
| (a) where the total income does not exceed Rs. 2,00,000 | 55 per cent of the total income ; |
| (b) where the total income exceeds Rs. 2,00,000 | 60 per cent of the total income ; |
| (ii) in any other case | 65 per cent of the total income ; |

Provided that—

(i) the income tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company) ; and

(b) eighty percent of the amount by which its total income exceeds Rs. 1,00,000 ;

(ii) the income-tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs. 2,00,000 shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 2,00,000 (the income of Rs. 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company) : and

(b) eighty percent of the amount by which its total income exceeds Rs. 2,00,000

| | |
|---|---|
| II. In the case of a company other than a domestic company,— | |
| (i) on so much of the total income as consists of— | |
| (a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961 ut before the 1st day of April, 1976, or | |
| (b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, | |
| and where such agreement has, in either case, been approved by the Central Government | 50 per cent.; |
| (ii) on the balance, if any, of the total incon | 70 per cent |

**Surcharge on income-tax**

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax.

## PART IV

[See section 2(9) (c

**Rules for computation of net Agricultural income**

**Rule 1.**—Agricultural income of the nature referred to in sub-clause (a) of clause (1) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly :

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A

**Rule 2.**—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the culti-

vator or the receiver of rent-in-kind referred to in the said sub-clause (c) ] shall be computed as if it were income chargeable to income-tax under that Act under the head " Profits and gains of business or profession " and the provisions of sections 30, 31, 32, 34, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43 and 43A of the Income-tax Act shall so far as may be, apply accordingly.

**Rule 3.**—Agricultural income of the nature referred to in sub-clause (c) of clause (1) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if were income chargeable to income-tax under that Act under the head " Income from house property " and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly :

Provided that sub-section (2) of the said section 23 shall apply subject to that modifications that the references to " total income " therein shall be construed as references to net agricultural income and that the words, figures and letter " and before making any deduction under Chapter VIA " shall be omitted.

**Rule 4.**—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derive income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee.

**Rule 5.**—Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (b) of Section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of the said Section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section

(1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee.

**Rule 6.**—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

**Rule 7.**—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of section 183 of the income-tax Act or is a member of an association of persons or body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income. assessee from any other source of agricultural income.

**Rule 8.**—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

**Rule 9.**—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1976, any agricultural income and the net result of the computation of the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1974 or the 1st day of April, 1975, or both, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the

extent, if any, such loss has not been set off against the agricultura income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, and

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1976.

(2) Where the assessee has, in the previous year relevant to the assessment year commenceing on the 1st day of April, 1977, or, if by virtue of any provision of the Income-tax is to be charged in respect of the income of a period other than that previous year, in such other period any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1974 or the 1st day of April, 1975 or the 1st day of April, 1976, is a loss, then, for the purposes of sub-section (7) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975 or the 1st day of April, 1976,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1976, and

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1976,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1977 or the period aforesaid.

(3) Where a change has occured in the constitution of a firm, nothing in sub-rule (1) or sub-rule (2) shall entitle the firm set off so much of the loss proportionate to the share of a retired or decreased partner computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax. Act

as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him.

(4) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(5) Notwithstanding anything contained in this rule, no loss which has not been determined by the Income-tax Officer under the provisions of these rules, or the rules contained in Part-IV of the First Schedule to the Finance Act, 1974 (20 of 1974), or of the First Schedule to the Finance Act, 1975 (25 of 1975), shall be set off under sub-rule (1) or, as the case may be, sub-rule 2).

**Rule 10.**—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be **nil.**

**Rule 11.**—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

**Rule 12.**—For the purposes of computing the net agricultural income of the assessee, the Income-tax Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

## HE SECOND SCHEDULE

(See section 3[...])

### Part-I

In the First Schedule to the Tariff Act,—

(i) in Item No. 47(2), for the entry i ...th column, the entry "100 per cent **ad valorem** Rs. 20.00 per kilogram" shall be substituted;

(ii) in Item No. 63(20A), for the figures "200" in the fourth column, the figures "300" shall be substituted;

(iii) in Item No. 64, for the figures "60" and "50" in the fourth and fifth columns, the figures "100" and "90" shall respectively, be substituted;

(iv) in Item Nos. 64(1) and 64(2), for the figures "40" in the fourth column against each of them, the figures "100" shall be substituted;

(v) in Item Nos. 64(3) and 64(5), for the figures "50" and "60" in the fourth column against each of them, the figures "90" and "100" shall, respectively, be substituted;

(vi) in Item No. 64(4), for the figures "40", "30" and "30" in the fourth, fifth and sixth columns, the figures "100", "90" and "90" shall, respectively, be substituted.

PART II

| Item No. | Name of article | Nature of duty | Standard rate of dut | Preferential rate of duty if the article is the produce or manufacture of | | Duration of protective rates of duty |
|---|---|---|---|---|---|---|
| | | | | The United Kingdom | A British Colony | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| In the First Schedule to the Tariff Act,— | | | | | | |
| (i) after Item No. 28B, the following Item shall be inserted, namely:— | | | | | | |
| "28C | Caprolactam and Dimethyl terephthalate. | Preferential Revenue | 150 per cent *ad valorem.* | 140 per cent. *ad valorem.* | 140 per cent. *ad valorem* | ...";; |
| (ii) for Item No. 63(30), the following Item shall be substituted, namely:— | | | | | | |
| "63(30) | Alloy steel and high carbon steel | Revenue. | 60 per cent *ad* | ... | ... | ... |

| | |
|---|---|
| products, the following, namely, ingots, blooms, billets, slabs, bars, flats, rods, coils, angles, shapes, sections, sheets, plates, hoops, strips and wire, but excluding articles specified in Item Nos. 63 (14A) and 63(20A). | *valorem*. |

**Explanation I.**—This Item is to be taken to apply to the goods mentioned therein even though they may be covered by any other Item in this Schedule.

**Explanation II.**—For the purposes of this Item, the expressions "alloy steel" and "high carbon steel" have the meanings respectively assigned to them in Note 1 (d) and 1 (e) of Chapter 73 of the First Schedule to the Customs Tariff Act, 1975. (51 of 1975)

## THE THIRD SCHEDULE

[*See* Section 34]

### PART I

In the First Schedule to the Custom Tariff Act,—

(i) in Heading No. 51.01/03, for the entry in column (3), the entry "100% *plus* Rs. 20 per kilogram" shall be substituted ;

(ii) in Heading No. 56.05/06, for the entry in column (3), the entry "100% *plus* Rs. 20 per kilogram" shall be substituted ;

(iii) in Heading No. 74.01/02, for the entry in column (3), the entry "100%" shall be substituted ;

(iv) in Heading No. 74.03—

(1) in sub-heading No. (1), for the entry in column (3), the entry "100%" shall be substituted ;

(2) in sub-heading No. (2), for the entries in columns (3) and (4), the entries "100%" and "90%" shall, respectively, be substituted ;

(v) in Headings Nos. 74.04/05 and 74.06, for the entry in column (3) against each of them, the entry "100%" shall be substituted ;

(vi) in Heading No. 74.07/08, in sub-heading No. (1), for the entry in column (3), the entry "100%" shall be substituted ;

(vii) in Heading No. 74 09/19, for the entry in column (3), the entry "100% " shall be substituted.

PART II

| Heading No. | Sub-heading No and description of article | Rate of duty | | | Duration when rates of duty are protective |
|---|---|---|---|---|---|
| | | Standard | U. K. | Other Preferential Areas | |
| (1) | (2) | (3) | (4) | (5) | 6) |

In the First Schedule to the Customs Tariff Act,—

(i) in Heading No. 29.01/45, after sub-heading No. (19), the following sub-heading shall be inserted, namely :

| | | | | | |
|---|---|---|---|---|---|
| "(20) | Caprolactem and Dimethyl terephthalate | 150% | 140% | 140% | ..."; |

(ii) for Heading No. 73.15, the following Heading shall be substituted, namely :—

| | | | | | |
|---|---|---|---|---|---|
| "73.15 | Alloy steel and high carbon steel in the forms mentioned in Headings Nos. 73.06/07 to 73 14 : | | | | |
| | (1) Not elsewhere specified. | 60% | ... | ... | ... |
| | (2) Coils for re-rolling, strips sheets and plates, of stainless steel. | 300% | ... | — | — |

PART III

In the Second Schedule to the Customs Tariff Act in Heading No. 1, for the entry in column (3), the entry "Rs. 300 per quintal" shall be substituted.

PART IV

| Heading No. | Description of article | Rate of duty |
|---|---|---|
| (1) | (2) | (3) |

In the Second Schedule to the Customs Tariff Act, the following Heading shall be inserted at the end, namely :—

| | | |
|---|---|---|
| "20. | Groundnut— | |
| | (i) Groundnut kernel | Rs. 800 per tonne. |
| | (ii) Groundnut in shell | Rs. 600 per tonne.". |

THE FOURTH SCHEDULE

[*See* Section 35]

PART I

In the First Schedule to the Central Excises Act,—

(i) in Item No. 4, under "II. Manufactures ..... the entry in the third column against sub-item (1), the entry "One hundred and fifty-five per cent. *ad valorem*." shall be substituted ;

(ii) in Item No 6, for the entry in the third column, the entry "Two thousand two hundred rupees per kilolitre at fifteen degrees of Centigrade thermometer " shall be substituted ;

(iii) in Item No. 8, for the entry in the third column against sub-item (a), the entry "One thousand rupees per kilolitre at fifteen degrees of Centigrade thermometer.". shall be substituted ;

(iv) in Item No. 10, for the entry in the third column, the entry "One hundred and fifty rupees per kilolitre at fifteen degrees of Centigrade thermometer." shall be substituted ;

(v) in Item No. 11, for the entry in the third column against sub-item (1), the entry "Two hundred rupees per metric tonne." shall be substituted ;

(vi) in Item No 11A, for the entries in the third column sub-items (3) and (4), the entries "Twenty per cent. *ad valorem plus* six hundred rupees per metric tonne." and "Twenty per cent. *ad valorem plus* two thousand rupees per metric tonne." shall, respectively, be substituted ;

(vii) in Item No. 11B, for the entry in the third column, the entry "Twenty per cent. *ad valorem plus* two thousand rupees per metric tonne." shall be substituted ;

(viii) in Item No. 14E, for the entry in the third column the entry "Twelve and a half per cent. *ad valorem*." shall be substituted ;

(ix) in Item No. 18, after *Explanation III*, the following *Explanation* shall be inserted, namely

"**Explanation IV**.—This item does not include mineral fibres and yarn."

(x) in Item No 19, in the second column, for the words "impregnated or coated", wherever they occur, the words "impregnated, coated or laminated" shall be substituted ;

(xi) in Item No. 22,—

(a) in the second column, for the words "impregnated or coated", wherever they occur, the words "impregnated, coated or laminated" shall be substituted ;

(b) the *Explanation* shall be numbered as "*Explanation I.*" and after the *Explanation* as so numbered, the following *Explanation* shall be inserted, namely :—

"*Explanation II.*—This item does not include glass fabrics."

(xii) in Item No. 22B, in the second column. for the words "IMPREGNATED OR COATED", the words "IMPREGNATED COATED OR LAMINATED", shall be substituted ;

(xiii) in Item No. 22C, in the second column. for the words "IMPREGNATION OR COATING", the words "IMPREGNATION, COATING OR LAMINATION" shall be substituted ;

(xiv) in Item No. 33A,—

(a) for the entries in the third column against sub-items (2) and (3), the entries "Four hundred rupees per set" and Four hund-ed rupees per set." shall respectively, be substiuted ;

(b) for the entry in the second column against sub item (3) the entry "Radiograms (including radio or transistor sets with extra space in cabinet for fitting in record players or record changers), and combination sets of radios (including transistor sets) and tape recorders (including cassette recorders and tape decks)" and shall be substituted ;

(xv) in Item No. 33D, in the second column,—

(a) the words and brackets "COMPUTERS (INCLUDING CENTRAL PROCESSING UNITS AND PERIPHERAL DEVICES)" shall be omitted ;

(b) after the words "OR UNASSEMBLED CONDITION". the words, "NOT ELSEWHERE" SPECIFIED shall be inserted :

(xvi) in Item No. 35, in the second column, for the words "CYCLES, PARTS OF CYCLES", the words PARTS OF CYCLES" shall be substituted ;

(xvii) Item No. 45 shall be omitted,

PART II

| Item No. | Description of goods | Rate of duty |
|---|---|---|
| (1) | (2) | (3) |
| | In the First Schedule to the Central Excises Act,— | |
| | (i) for Item No. ID, the following Item shall be substituted, namely :— | |
| "ID | AERATED WATERS, WHETHER OR NOT FLAVO- | |

| 1 | 2 | 3 |
|---|---|---|
| | URED OR SWEETENED AND WHETHER OR NOT CONTAINING VEGETABLE OR FRUIT JUICE OR FRUIT PULP— | |
| | (I) Aerated waters, in the manufacure of which blended flavouring concentrates in any form are used— | |
| | (a) For each unit hontainer containing 200 millitres or less. | Twenty-nve pais |
| | (b) For each unit container containing more than 200 millilitres. | Twenty-five paise plus, ten paise for every hundred millilitres or fraction thereof in excess of 200 millilitres. |
| | (c) All others. | Fifty-five per cent, ad valorem. |
| | (2) All others. | Twenty percent. advalorem" |
| (ii) | after Item No. 15B, the following Item shall be inserted, namely :- | |
| 5C | STARCH (INCLUDING DEXTRIN AND OTHER FORMS OF MODIFIED STRACH), ALL SORTS, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINAKILY CARRIED ON WITH THE AID OF POWER. | Ten per cent, advalorem." |
| (iii) | for Item No. 17, the following Item shall be substituted, namely :— | |
| | PAPER AND PAPER BOARD, ALL SORTS (including pastebord millboard, starwboaId, cardoboard and corrugated board) in or in relation to the manufactur of which any process is ordinarily carried on with the aid of power— | |
| | (1) Uncoated and coated printing and writing paper (other than poster paper) | Twenty-five per cen ad valorem. |
| | (2) Paper board and all other kinds of paper (including paper | Thirty per cent, ad valorem." ; |

| 1 | 2 | 3 |
|---|---|---|
| | or paper boards which have been subjected to various teatments such as coating, impregnating, corrugation, creping and design printing not elsewhere specified | |

(iv) in Item No. 19. for sub-item I (2), the following sub-item shall be susbtituted, namely:—

| | | |
|---|---|---|
| | "(2) Others.— | |
| (a) | Cotton fabrics, superfine—that is to say, fabrics in which the average count of yarn is 6 is or more. | fifteen percent. **ad valorem** |
| (b) | Cotton fabrics, fine—that is to say, fabrics in which the average count of yarn is 41s or more but is less than 61s | fifteen percent **ad valorem** |
| (c) | Cotton fabrics, medium A—that is to say, fabrics in which the average count of yarn is 26s or more but is less that 41s. | Three per cent **ad valorem** |
| (d) | Cotton fabrics, medium B—that is to say, fabrics in which the average count of yarn is 17s or more but is less than 26s | Three per cent **ad valorem** |
| (e) | Cotton fabrics, coarse—that is to say fabrics in which the average count of varn is less than 17s. | Three percent, **ad valorem** |
| (f) | Cotton fabrics not other wise specified. | fifteen per cent **ad valorem** |

(v) after Item No. 22 E, the following Item shall be inserted, namely:—

| | | |
|---|---|---|
| "22F | MINERAL FIBRES AND YARN, AND MANUFACTURES THEREFROM, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINRILY CARRIED ON WITH THE AID OF POWER. | fifteen per cent **ad valorem** |
| | **Explanation**.—"Mineral fibres and yarn, and manufactures therefrom" shall be deemed to include— | |
| | (i) glass fibre and yarn including glass tissues and glass wool ; | |
| | (ii) asbestos fibre and yarn ; | |
| | (iii) any other mineral fibre or yarn, whether continuous or otherwise such as slag-wool and rock wool ; and | |

| (1) | (2) | (3) |
|---|---|---|
| | (iv) manufactures containing mineral fibres and yarn, other than asbestos cement products. | |
| | (vi) for Item No 23, the following Item shall be substituted, namely :— | |
| '23 | CEMENT ALL VARIETIES | |
| | (1) Grey portland cement (including ordinary portland cement, pozzolana cement and blast furnace slag cement), masonry cement, rapid hardening cement, low heat cement and waterproof (hydrophobic) cement. | Rupees one hundred per metric tonne |
| | (2) All others. | Thirty-five per cent |
| | (vii) after Item No 33D, the following Item shall be inserted, namely :— | |
| "33DD | COMPUTERS (INCLUDING CENTRAL PROCESSING UNITS AND PERIPHERAL DEVICES), ALL SORTS. | Seventy per cent *ad valorem*" |

## THE FIFTH SCHEDULE

[*See* section 37]

In the First Schedule to the Additional Duties of Excise Act.—

(i) in Item No. 4, under "II. *Manufactured tobacco*—, for sub-item (1), the following sub-item shall be substituted, namely :—

| | | |
|---|---|---|
| "(1) | Cigars and cheroo | Fifty per cent. *ad valorem*; |

(ii) in Item No. 19.—

(a) in the second column, for the words "impregnated or coated, wherever they occur, the words "impregnated coated or laminated shall be substituted;

(b) for the entries in the third column, against, sub-items I (2) (a), I (2) (b), I (2) (c), I (2) (d), I (2) (e), and I (2) (f), the entries "Two and a half per cent., *ad valorem*., "Two and a half pes cent. *ad valorem*., "Two per cent, *ad valorem*., "One per cent. *ad valorem*., "One-half per cent., *ad valorem*., and "Two and a half per cent *ad valorem*., shall, respectively, be substituted;

(iii) in Item No. 22, in the second column, for the words "impregnated or coated," wherever they occur, the words "impregnated, coated or laminated" shall be substituted.

## THE SIXTH SCHEDULE

[*See* section 39 (c)]

In the Schedule to the Medicinal and Toilet Preparations (Excis Duties) Act, 1955, (16 of 1955.) for the headings and the items an entries relating thereto, occuring before the **Explanations** th following shall be substituted, namely : —

| "Item No. | Description of dutiable goods | Rate of dut |
|---|---|---|
| | **Medicinal preparations** | |
| 1. | Allopathic Medicinal Preparations : | |
| | (i) Medicinal preparations containing alcohol which are not capable of being consumed as ordinary alcoholic beverages— | |
| | (a) Patent or proprietary medicines. | Twenty per cent *advalorem* or rupees three and seventy-five paise per litre of the strength of London proof spirit, whichever is higher. |
| | (b) Others. | Rupees three and seventy-five paise per litre of the strength of London proof spirit |
| | (ii) Medicinal preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages— | |
| | (a) Medicinal preparations which contain known active ingredients in therapeutic quantities | Twenty per cent *advalorem* or rupees seven and fifty paise per litre of the strength of London proof spirit, which ever is higher |
| | (b) Others. | Rupees thirty per litre of the strength of London |

| | |
|---|---|
| (*iii*) Medicinal preparations not containing alcohol but containing narcotic drug or narcotic. | Twenty per cent. *advalorem*. |
| 2. Medicinal preparations in Ayurvedic, Unani or other indigenous systems of medicine— | |
| (*i*) Medicinal preparations containing self-generated alcohol which are not capable of being consumed as ordinary alcoholic beverages. | |
| (*ii*) Medicinal preparations containing self-generated alcohol which are capable of being consumed as ordinary alcoholic beverages. | Rupee one per litre of the strength of London proof spirit. |
| (*iii*) All others containing alcohol which are prepared by distillation or to which alcohol has been added. | Rupees thirty per litre of the strength of London proof spirit. |
| (*iv*) Medicinal preparations not containing alcohol but containing narcotic drug or narcotic. | Twenty per cent. *advalorem*. |
| 3. Homoeopathic preparations containing alcohol. | Rupees seven and fifty paise per litre of the Strength of London proof spirit. |
| **Toilet preparations** | |
| 4. Toilet preparations containing alcohol or narcotic drug or narcotic. | Sixty per cent. *advalorem* or rupees seven and fifty paise per litre of the strength or London proof spirit, whichever is higher |

K. K. SUNDARAM,
Secretary to the Govt. of India.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW. 62 LCA 76.

*Bangalore, dated 26th August 1976.*

Ordered that the Foreign Contribution (Regulation) Act, 1976 (Central Act No. 49 of 1976) published in Part II, Section 1 of the *Gazette of India, Extraordinary* dated 31st March 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO

*Under Secy. to Govt., I/C.,*

47 *Dept. of Law and Parly. Affairs.*

Assented to on 31st March 1976 Act No 49 of 1976

## THE FOREIGN CONTRIBUTION (REGULATION) ACT, 1976

### ARRANGEMENT OF SECTIONS

### CHAPTER I

PRELIMINARY

SECTIONS

1 Short title, extent, application and commencement
2 Definitions.
3 Application of other laws not barred.

### CHAPTER II

REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY

4 Candidate for election, etc., not to accept foreign contribution.
5 Organisation of a political nature not to accept foreign contribution except with the prior permission of the Central Government.
6 Certain associations and persons receiving foreign contribution to give intimation to the Central Government.
7 Recipients of scholarships, etc., to give intimation to the Central Government.
8 Persons to whom section 4 shall not apply.

9 Restrictions on acceptance of foreign hospitality.

10 Power of Central Government to prohibit receipt of contribution, etc., in certain cases.

11 Application to be made in prescribed form for obtaining prior permission to accept foreign contribution or hospitality.

## CHAPTER I

### MISCELLANEOUS

12 Power to prohibit payment of currency received in contravention of the Act.

13 Recipients of foreign contribution to maintain accounts, etc.

14 Inspection of accounts or records.

15 Seizure of accounts or records.

16 Seizure of article or currency received in contravention of the Act.

17 Seizure to be made in accordance with the Code of Criminal Procedure, 1973.

18 Confiscation of article or currency obtained in contravention of the Act.

19 Adjudication of confiscation

20 Opportunity to be given before adjudication of confiscation.

21 Appeal.

22 Penalty for article or currency obtained in contravention of Section 12.

23 Punishment for the contravention of any provision of the Act.

24 Power to impose additional fine where article or currency is not available for confiscation.

25 Penalty for offences where no separate punishment has been provided.

26 Offences by companies.

27 Bar to the prosecution of offences under the Act.

28 Investigation into cases under the Act.

29 Protection of action taken in good faith.

30 Power to make rules

31 Power to exempt.

32 Act not to apply to Government transactions.

# THE FOREIGN CONTRIBUTION (REGULATION) BILL ACT, 1976

AN

ACT

*to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain persons or associations, with a view to ensuring that parliamentary institutions, political associations and academic and other voluntary organisations as well as individuals working in the important areas of national life may function in a manner consistent with the values of a sovereign democratic republic, and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

1. (*1*) **Short title, extent, application and commencement.**—This Act may be called the Foreign Contribution (Regulation) Act, 1976.

(2) It extends to the whole of India, and it shall also apply to—

(*a*) citizens of India outside India; and

(*b*) associates, branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**—(1) In this Act, unless the context requires,—

(*a*) "association" means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860, (21 of 1860) or not, and any other organisation, by whatever name called;

(*b*) "candidate for election" means a person who has been duly nominated as a candidate for election to any Legislature;

(*c*) "foreign contribution" means the donation, delivery or transfer made by any foreign source,—

(*i*) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, does not exceed one thousand rupees;

(*ii*) of any currency, whether Indian or foreign;

(*iii*) of any foreign security as defined in clause (*i*) of section 2 of the Foreign Exchange Regulation Act, (46 of 1973.) 1973;

(*d*) "foreign hospitality" means any offer, not being a purely casual one, made by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free board, lodging, transport or medical treatment;

(*e*) "foreign source" includes.—

(*i*) the Government of any foreign country or territory and any agency of such Government.

(*ii*) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, be notification in the Official Gazette, specify in this behalf,

(*iii*) a foreign company within the meaning of Section 591 of the Companies Act, (1 of 1956) 1956, and also includes.—

(*a*) a company which is a subsidiary of a foreign company, and

(*b*) a multi-national corporation within the meaning of this Act,

(*iv*) a corporation, not being a foreign company, incorporated in a foreign country or territory,

(*v*) a multi-national corporation within the meaning of this Act,

(*vi*) a company within the meaning of the Companies Act, (1 of 1956) 1956, if more than one half of the nominal value of its share

(vi) a company within the meaning of the Companies Act, 1956, (1 of 1956) if more than one-half of the nominal value of of its share capital is held, either singly or in the aggregate, by one or more of the following, namely :—

(*a*) Government of a foreign country or territory,

(*b*) citizens of a foreign country or territory,

(*c*) corporations incorporated in a foreign country or territory,

(*d*) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory,

(*vii*) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory,

(*viii*) a foreign trust by whatever name called, or a foreign foundation which is either in the nature of trust or is mainly financed by a foreign country or territory,

(*ix*) a society, club or other association of individuals formed or registered outside India

(*x*) a citizen of a foreign country,

but does not include any foreign institution which has been permitted by the Central Government by notification in the Official Gazette, to carry on its activities in India:

(*f*) "Legislature" means—

(*i*) either House of Parliament,

(*ii*) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State

(*iii*) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963, (20 of 1963).

(*vi*) the Metropolitan Council of Delhi constituted under section 3 of the Delhi Administration Act, 1966, 19 of 1966.

(*v*) Municipal Corporations in metropolitan areas as defined in the Code of Criminal Procedure, 1973, (2 of 1974),

(*vi*) District Councils and Regional Councils in the States of Assam and Meghalaya and in the Union territory of Mizoram as provided in the Sixth Schedule to the Constitution, or

(*vii*) any other elective body as may be notified by the Central Government

as the case may be;

(*g*) "political party" means an association or body of individual citizens of India which is or is deemed to be, registered with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Order, 1968 as in force for the time being;

(*h*) "prescribed means prescribed by rules made under this Act;

(*i*) "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867; 25 of 1867.

(*j*) "subsidiary" and "associate" have the meanings, respectively, assigned to them in the Companies Act, 1956; (1 of 1956).

(*k*) "trade union" means a trade union registered under the Trade Unions Act, 1926 (16 of 1926).

*Explanation.*—For the purposes of this Act, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation—

(*a*) has a subsidiary or a branch or a place of business in two or more countries or territories or

(*b*) carries on business, or otherwise operates, in two or more countries or territories.

(2) Words and expressions used herein and not defined but defined in the Foreign Exchange Regulation Act, 1973, (46 of 1973) have the meanings respectively assigned to them in that Act.

(3) Words and expressions used herein and not defined in this Act or in the Foreign Exchange Regulation Act, 1973, (46 of 1973), but defined in the Representation of the People Act, 1950, (43 of 1950) or the Representation of the People Act, 1951, (43 of 1951) have the meanings respectively assigned to them in such Act.

3. **Application of other laws not barred.**—The provisions of this Act shall be in addition to, and not in [illegible] law for the time being in force.

## CHAPTER II

### REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY

4. **Candidate for election etc., not to accept foreign contribution.**—(1) No foreign contribution shall be accepted by any—

(a) candidate for election,

(b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper,

(c) Government servant or employee of any corporation,

(d) member of any Legislature,

(e) political party or office-bearer thereof.

*Explanation.*—In clause (c) and in section 9, "corporation" means corporation owned or controlled by Government and includes a Government company as defined in section 617 of Companies Act, 1956 (1 of 1956).

(2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1); or both

(b) No person, resident in India, shall deliver any currency whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both, or

(*ii*) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (*1*), or both.

(*3*) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any association, referred to in sub-section (*1*) of section 6, shall deliver such currency—

(*i*) to any association or Organisation other than the association for which it was received, or

(*ii*) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to an association other than the association for which such currency was received.

**5. Organisation of a Political nature not to accept foreign contribution except with the prior permission of the Central Government** (*1*).— No organisation of a political nature, not being a political party, shall, accept any foreign contribution except with the prior permission of the Central Government.

*Explanation.*—For the purposes of this section, "organisation of a political nature, not being a political party" means such organisation as the Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisation with the activities of any political party, by an order published in the Official Gazette, specify in this behalf.

(*2*) (*a*) Except with the prior permission of the Central Government, no person, resident in India, and no citizen of India, resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any foreign currency, on behalf of an organisation referred to in sub section (*1*).

(*b*) Except with the prior permission of the Central Government, no person, resident in India, shall deliver any foreign currency to any person if he knows or has reasonable cause to believe that such other person intends or is likely, to deliver such currency to an organisation referred to in sub-section (*1*).

(*c*) Except with the prior approval of the Central Government, no citizen of India, resident outside India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

(*i*) any organisation referred to in sub-section (*1*), or

(*ii*) any person, if he knows or has reasonable cause to believe that such person intends, or is likely, to deliver such currency to an organisation referred to in sub-section (*1*).

**6. Certain associations and persons receiving foreign contribution to give intimation to the Central Government** (*1*).—Every association [not being an organisation referred to in sub section (*1*) of section 5] having a definite cultural, economic, educational, religious or social programme shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which, such foreign contribution was utilised by it.

(*2*) Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of foreign contribution received by him, the source from which and the manner in which such foreign contribution was received and the purposes for which, and the manner in which, such foreign contribution was utilised by him.

**7. Recipients of scholarships, etc., to give intimation to the Central Government** (*1*).—Every citizen of India receiving any scholarship, stipend or any payment of a like nature from any foreign source shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of the scholarship stipend or other payment received by him and the foreign source from which, and the purpose for which, such scholarship, stipend or other payment has been, or is being, received him.

(*2*) Where any recurring payments are being received by any citizen of India from any foreign sonrce by way of scholarship stipend or other payment, it shall be sufficient if the intimation referred to in sub-section (*1*) includes a precise information as to the intervals at which, and the purpose for which, such recurring payments will be received by such citizen of India.

(*3*) It shall not be necessary to give such intimation as is referred to in sub section (*1*) or sub-section (*2*) in relation to scholarships, stipends or payments of a like nature, if the annual value of such scholarships, stipends or other payments does not exceed such limits as the Central Government may, by rules made under this Act, specify in this behalf.

**8. Persons to whom section 4 shall not apply**:—Nothing contained in section 4 shall apply to the acceptance, by any person specified in that section, of any foreign contribution, where such contribution is accepted by him subject to the provisions of section 10,—

(*a*) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign

source or by way of payment in the ordinary course of business transacted in India by such foreign source ; or

(*b*) by way of payment in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India ; or

(*c*) as an agent of a foreign source in relation to any transaction made by such foreign source with Government ; or

(*d*) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the regulations made by the Central Government with regard to the acceptance or retention of such gift or presentation ; or

(*e*) from his relative when such foreign contribution has been received with the previous permission of the Central Government :

Provided that no such permission shall be required if the amount of foreign contribution received by him from his relative does not exceed, in value, eight thousand rupees per annum and an intimation is given by him to the Central Government as to the amount received the source from which and the manner in which it was received and the purpose for which and the manner in which it was utilised by him ;

(*f*) by way of remittance received, in the ordinary course of business, through any official channel, post office, or any authorised dealer in foreign exchange under the Foreign Exchange Regulation Act, 1973. (46 of 1973).

*Explanation.*—In this Act, the expression "relative" has the meaning assigned to it in the Companies Act, 1956. (1 of 1956).

**9. Restrictions on acceptance of foreign hospitality.**—No member of a Legislature, office-bearer of a political party, Government servant or employee of any corporation shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality :

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality, an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

**10. Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases.**—The Central Government may,—

(*a*) prohibit any association, not specified in section 4, or any person, from accepting any foreign contribution ;

(b) require any association, specified in section 6, to obtain prior permission of the Central Government before accepting any foreign contribution ;

(c) require any person or class of persons or any association, not being an association specified in section 6, to furnish intimation within such time and in such manner as may be prescribed as to the amount of any foreign contribution received by such person or class of persons or association, as the case may be, and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilised ;

(d) require any person or class of persons, not specified in section 9, to obtain prior permission of the Central Government before accepting any foreign hospitality ;

(e) require any person or class of persons, not specified in section 9, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received :

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such association or person or class of persons, as the case may be, the acceptance of foreign hospitality by such person, is likely to affect prejudicially.—

(i) the sovereignty and integrity of India ; o

(ii) the public interest ; or

(iii) freedom or fairness of election to any Legislature ; or

(iv) friendly relations with any foreign State ; or

(v) harmony between religious, racial, linguistic or regional groups, castes or communities.

**11. Application to be made in prescribed form for obtaining prior permission to accept foreign contribution or hospitality.**— (1) Every individual, association, organisation or other person, who is required by or under this Act to obtain the prior permission of the Central Government to accept any foreign contribution or foreign Hospitality, shall, before the acceptance of any such contribtion or hospitality, make an application for such permission to the Central Government in such form and in such manner as may be prescribed.

(2) If an application referred to in sub-section (1) is not disposed of within ninety days from the date of receipt of such application, the permission prayed for in such application shall, on the expiry of the said period of ninety days, be deemed to have been granted by the Central Government.

Provided that, where, in relation to an application, the Central Government has informed the applicant the special difficulties by reason of which his application cannot be disposed of with in the said period of ninety days, such application shall not until the expiry of a further period of thirty days, be deemed to have been granted by the Central Government.

## CHAPTER-III

### MISCELLANEOUS

**12. Power to prohibit payment of currency received in contravention of the Act.**— Where the Central Government is satisfied after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and there-upon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) shall, so far as may be, apply to, or in relation to, such article or currency and references in the said sub-sections to moneys, securites or credits shall be construed as references to such article or currency.

**13. Recipients of foreign contribution to maintain accounts, etc.**— Every association, referred to in section 6, shall maintain, in such form and in such manner as may be prescribed,—

(*a*) an account of any foreign contribution received by it, and

(*b*) a record as to the manner in which such contribution has been utilised by it.

**14. Inspection of accounts or records.**— If the Central Government has, for any reason, to be recorded in writting, any ground to suspect that any provision of this Act has been, or is being, contravened by—

(*a*) any political party, or

(*b*) any person, or

(c) any organisation, or

(*d*) any association,

it may, by general or special order, authorise such gazetted officer, holding a class I post, as it may think fit (hereinafter referred to

as the authorised officer), to inspect any account or record main tained by such political party, person, organisation or association as the case may be, and thereupon every such authorised officer shal have the right to enter in or upon any premises at any reasonabl hour, before sunset and after sunrise, for the purpose of inspectin the said account or record :

Provided that no gazetted officer shall be authorised to inspec the account or record maintained by a political party, unless he ha been holding a class I post in connection with the affairs of th Union, or a State, for not less than ten years.

15. **Seizure of accounts or records.**—If, after inspection of ar account or record referred to in Section 14, the authorised office has any reasonable cause to believe that any provision of this Ac or of any other law relating to foreign exchange has been, or i being, contravened, he may seize such account or record and produc the same before the court in which any proceeding is brought fo such contravention :

Provided that the authorised officer shall return such account o record to the person from whom it was seized if no proceeding i brought within six months from the date of such seizure of th contravention disclosed by such account or record.

16. **Seizure of article or currency received in contravention of the Act.**—If any gazetted officer, authorised in this behalf by th Central Government, by general or special order, has any reason to believe that any person has in his possession or control any article exceeding rupees one thousand in value, or currency, whether Indian or foreign, in relation to which any provision of this Act has been or is being, contravened, he may seize such article or currency.

17. **Seizure to be made in accordance with the Code of Crimina Procedure, 1973.**—Every seizure made under this Act shall be made in accordance with the provision of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974)

18. **Confiscation of article or currency obtained in contravention of the Act.**—Any article or currency which is seized under section 16 shall be liable to confiscation if such article or currency has been adjudged under section 19 to have been received or obtained in contravention of this Act.

19. **Adjudication of confiscation.**—Any confiscation referred to in section 18 may be adjudged—

(*a*) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made ; and

(*b*) subject to such limits as may be prescribed, by such officer not below the rank of an Assistant Sessions Judge, as the Centra

Government may by notification in the Official Gazette, specify in this behalf.

20 Opportunity to be given before adjudication of confiscation No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency has been seized.

21. Appeal.—(1) Any person aggrieved by any order made under section 19 may prefer an appeal,—

(a) where the order has been made by the Court of Session to the High Court to which such Court is subordinate or

(b) where the order has been made by any officer specified under clause (b) of section 19, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made,

within one month from the date of communication to such person of the order :

Provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

(2) Any organisation referred to in section 5, or any person or association referred to in section 9 or section 10 aggrieved by an order made in pursuance of the *Explanation* to sub-section (1) of section 5 or by an order of the Central Government refusing to give permission or by any order made by the Central Government, under sect on 5 or section 9 or section 10, as the case may be, may within sixty days from the date of such order prefer an appeal against such order to the High Court within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organization or association, the principal office of such organization or association is located.

(3) Every appeal preferred under this section shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, (5 of 1908) shall, as far as may be, apply thereto as they apply to an appeal from an original decree.

22 Penalty for article or currency obtained in contravention of section 12 —If any person on whom any prohibitory order has been served under section 12, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency, whether Indian or foreign, in contravention of such prohibitory, order he shall

be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1974, (2 of 1974) the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

23. **Punishment for the contravention of any provision of the Act.**—(1) Whoever accepts or assists any person, political party or organisation in accepting any foreign contribution or any currency from a foreign source, in contravention of any provision of this Act or any rule made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) Whoever accepts any foreign hospitality in contravention of any provision of this Act or any rule made thereunder shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

24. **Power to impose additional fine where article or currency is not available for confiscation.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) the Court trying a person, who, in relation to any article or currency, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or one thousand rupees, whichever is more, if such article or currency is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act.

25. **Penalty for offences where no separate punishment has been provided.**—Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine not exceeding one thousand rupees, or with both.

26 (1) **Offences by companies.**—(1) Where an offence under this Act or any rule made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or any rule made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglection the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation*.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm, society, trade union or other association of individuals; and

(b) "director", in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

27. **Bar to the Prosecution of offences under the Act.**—No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

28. **Investigation into cases under the Act.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) any offence punishable under this Act may also be investigated into by such authority as the Central Government may specify in this behalf and the authority so specified shall have all the powers which an officer-in-charge of a police station has while making an investigation into a cognizable offence.

29. **Protection of action taken in good faith.**—No suit or other legal proceedings shall lie against the Central Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule or order made thereunder.

30. **Power to make rules.**—(1) The central Government may, by notification in the Official Gazette, make rules for carrying out the Provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely.—

(a) the time within which, and the manner in which, intimation is to be given by an association referred to in section 6, with regard to the foreign contributions received by it;

(*b*) the limits up to which receipt of scholarships, stipends or payments of a like nature need not be intimated to the central Government;

(*c*) the time within which, and the manner in which, intimation is to be given by persons receiving any scholarship, stipend or any payment of a like nature from a foreign source;

(*d*) the time within which, and the manner in which a candidate for election should give intimation as to the amount of foreign contribution received by him at any time within one hundred and eighty days from the date when he became such candidate;

(*e*) the form and manner in which an application shall be made for obtaining prior permission of the Central Government to receive foreign contribution or foreign hospitality;

(*f*) The manner of service of the prohibitory order made under section 12;

(*g*) the form and manner in which account or record referred to in section 13 shall be maintained;

(*h*) the limits up to which an officer, not below the rank of an Assistant Sessions Judge, may make adjudication of confiscation;

(*i*) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. **Power to exempt:**—If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order exempt any association (not being a political party), organisation or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may from time to time rescind, vary or modify such order.

32. **Act not to apply to Government transactions:**— Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory.

Notification No. LAW 63 LCA 76.

*Bangalore, dated the 27th August 1976.*

Ordered that the Maternity Benefit (Amendment) Act, 1976 (Central Act No. 53 of 1976) published in Part II Section 1 of the Gazette of India, Extraordinary dated 3rd April 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO,

48 *Under Secy. to Govt., I/c. Deptt. of Law and Parliamentary Affairs.*

Assented to on 3rd April 1976 Act No. 53 of 1976

## THE MATERNITY BENEFIT (AMENDMENT) ACT, 1976

AN

ACT

*ther to amend the Maternity Benefit Act*, 1961.

____ ____ted by Parliament in the Twenty-seventh Year of the Republic of India as follows.—

1. **Short title and commencement.**—(1) This Act may be called the Maternity Benefit (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of Section 2.**—In Section 2 of the Maternity Benefit Act, 1961 (53 of 1961) (hereinafter referred to as the principal Act), in sub-section (2), for the word, figure and letter "Section 5A", the words, figures and letters "Sections 5A and 5B" shall be substituted.

3. **Insertion of new Section 5B.**—After Section 5A of the principal Act, the following section shall be inserted, namely.—

**Payment of maternity benefit in certain cases.**—"5B. Every women—

(a) who is employed in a factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948, (34 of 1948) apply;

(b) whose wages (excluding remuneration for overtime work) for a month exceed the amount specified in sub-clause (b) of clause (9) of Section 2 of that Act; and

(c) who fulfils the conditions specified in sub-section (2) of Section 5,

shall be entitled to the payment of maternity benefit under this Ac

Notification No. LAW 64 LCA 1976

*Bangalore, Dated..... August 1976*

Ordered that the Indian Standards Institution (Certification Marks) (Amendment Act, 1976 (Central Act No. 54 of 76) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 3rd April 1976 be republished in the *Karnataka Gazette* for General information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO,

*U. Secy to Govt. I/C., Dept. of Law and Parliamentary Affairs.*

**Assented to on 3rd April 1976 Act No. 54 of 1976**

## THE INDIAN STANDARDS INSTITUTION (CERTIFICATI MARKS) AMENDMENT ACT, 1976

'AS PASSED BY THE PARLIAMENT

AN ACT

*further to amend the Indian Standards Institution (Certification Marks) Act, 1952.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title :** This Act may be called the Indian Standards Institution (Certification Marks) Amendment Act, 1976.

2. **Amendment of section 20.**—In section 20 of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952) (hereinafter referred to as the principal Act,—

(i) in sub-section (2), clause (e) shall be omitted ;

(ii) sub-section (4) shall be omitted.

3. **Amendment of section 21.**—In section 21 of the principal Act, in sub-section (2), after the word and figures "section 20", the words "and may also provide for the levy of fees for the grant or renewal of any licence" shall be inserted.

4. **Insertion of new section 22, Rules and regulations to be laid before Parliament.**—In the principal Act, after section 21, the following section shall be inserted, nmely :—

"22. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation."

GOVERNMENT OF KARNATAKA

*Bangalore, dated 27th August 1976.*

Notification No. LAW 67 LCA 1976.

Ordered that the Beedi Workers Cess Act, 1976 (56 of 1976) published in Part II, Section 1 of the Gazatte of India, Extraordinary dated 8th April 76 be republished in the Karnataka Gazette for general information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO,

*Under Secy. to Govt., I/c Department of Law and Parliamentary Affairs.*

51

Assented to on 8th April 76 Act No. 56 of 1976

## THE BEEDI WORKERS WELFARE CESS ACT 1976

AN

Act

*to provide for the levy and collection, by way of cess, a duty of excise on tobacco issued for the manufacture of beedi.*

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Beedi Workers Welfare Cess Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Fund" means the Beedi Workers Welfare Fund formed under section 3 of the Beedi Workers Welfare Fund Act, 1976;

(b) "prescribed" means prescribed by rules made under this Act'

3. **Levy and collection of cess on tobacco issued for manufacture of beedi.**—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected by way of cess for the purposes of the Beedi Workers Welfare Fund Act, 1976, on so much of the tobacco as is issued to any person from a warehouse for any purpose in connection with the manufacture of beedi, a duty of excise at such rate not exceeding one rupee per kilogram on such tobacco as the Central Government may, from time to time, fix by notification in the Official Gazette.

*Explanat*

or premises appointed or licensed under rule 140 of the Central Excise Rules, 1944, made under the Central Excises and Salt Act, 1944. (1 of 1944).

(2) The duty of excise levied under sub-section (1) shall be in addition to any cess or duty leviable on tobacco under any other law for the time being in force.

4. **Crediting of proceeds of duty to the Consolidated Fund of India.**—The proceeds of the duty of excise levied under sub-section (1) of section 3 shall be credited to the Consolidated Fund of India.

5. **Power to call for information.**—The Central Government or any other authority specified by it in this behalf may require any person to furnish, for the purposes of this Act, such statistical and any other information as it may think fit.

6. **Protection of action taken good faith.**—No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of the Central Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder,

7. **Power to make rules.**—(1) The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(2) In Particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the assessment and collection of the duty of excise levied under section 3;

(b) the furnishing to the Central Government or any other authority specified by it in this be half by any person of such statistical and any other information as may be required to be furnished under section 5;

(c) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified from or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Notification No. LAW 66 LCA 1976

*Bangalore, dated ..... August 1976.*

Ordered that the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976 (Central Act No. 55 of 1976) published in Part II, Section 1 of the *Gazette of India*, Extraordinary dated 8th April 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO,

*Under Secretary to Government.*, I/c.,

50 *Department of Law and Parliamentary Affairs.*

Assented to on 7th April 1976 Act No. 55 of 1976

## THE IRON ORE MINES AND MANGANESE ORE MINES LABOUR WELFARE CESS ACT, 1976.

AN

ACT

*to provide for the levy and collection of a cess on iron ore and manganese ore for the financing of activities to promote the welfare of persons employed in the iron ore mines and manganese ore mines and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States :

Provided that the Central Government may, by notification in the Official Gazette, apply in the first instance the provisions of this Act, only to iron ore mines, or only to manganese ore mines, in a State with effect from such date as may be specified in the notification, and if that Government is satisfied that it is necessary or expedient so to do, it may extend this Act to all iron ore mines and manganese ore mines in that State with effect from such date as may be specified in the notification published in the Official Gazette.

2. **Definitions.**—(1) In this Act, unless the context otherwise requires,—

(a) "export" means taking out of India to a place outside India;

(b) "Fund" means the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund formed under section 3 of the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976;

(c) "prescribed" means prescribed by rules made under this Act.

(2) Words and expressions used but not defined in this Act and defined in the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976, shall have the meanings respectively assigned to them in that Act.

3. **Levy and collection of cess on iron ore and manganese ore.**—With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected as a cess for the purposes of the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976—

(i) on all iron ore produced in any mine,—

(a) a duty of customs, where such iron ore is exported; or

(b) a duty of excise, where such iron ore is sold or otherwise disposed of to the occupier of any metallurgical factory, or to any person who in turn sells it to a metallurgical factory, or is used by the owner of the mine in any metallurgical factory,

at such rate not exceeding one rupee per metric tonne of iron ore as the Central Government may, from time to time, fix by notification in the Official Gazette;

(ii) on all manganese ore produced in any mine,—

(a) a duty of customs, where such manganese ore is exported; or

(b) a duty of excise, where such manganese ore is sold or otherwise disposed of to the occupier of any metallurgical factory, or to any person who in turn sells it to a metallurgical factory, or is used by the owner of the mine in any metallurgical factory,

at such rate not exceeding six rupees per metric tonne of manganese ore as the Central Government may, from time to time, fix by notification in the Official Gazette.

*Explanation.*—Where the owner of any iron ore mine or manganese ore mine is also the occupier of a metallurgical factory, then for the purposes of sub-clause (b) of clause (i) or sub clause (b) of clause (ii), all the iron ore or manganese ore, as the case may be, produced in the mine and not sold or otherwise disposed of to the occupier of any other metallurgical factory or to any other person shall be deemed unless the contrary is proved, to have been used by such owner for his own metallurgical factory.

**4. Payment of duty of customs and duty of excise.**—(1) Every duty of customs leviable under this Act on any iron ore or manganese ore shall be payable to the Central Government by the person by whom the iron ore or, as the case may be, manganese ore is exported.

(2) Every duty of excise leviable under this Act on any iron ore or manganese ore shall be payable—

(*a*) to the occupier of the metallurgical factory by the person by whom such iron ore or manganese ore is sold or otherwise disposed of to such occupier,

(*b*) to the Central Government, by the owner of the iron ore mine or manganese ore mine where the iron ore or manganese ore is used by such owner in any metallurgical factory,

within such period as may be prescribed.

(3) All amounts referred to in clause (*a*) or sub-section (2) shall be collected by the occupier of the metallurgical factory in such manner, and paid by him to the Central Government within such period, as may be prescribed.

**5. Crediting proceeds of duty to Consolidated Fund of India.**—The proceeds of duty of customs and duty of excise levied under section 3 shall be credited to the Consolidated Fund of India.

**6. Power of Central Government to exempt.**—Notwithstanding anything contained in this Act, if the Central Government is of opinion that in respect of any metallurgical factory or class of metallurgical factories the levy of the duty of customs or duty of excise on iron ore or manganese ore under this Act is disproportionate to the cost of collection of such duty of customs or duty of

excise from such metallurgical factory or class of metallurgica factories, it may, by notification in the Official Gazette and subjec to such exceptions and modifications as may be specified in the saic notification, exempt such metallurgical factory or class of metallur gical factories from all or any of the provisions of this Act.

7. **Interest payable by occupiers of factories and owners o mines.**—If any occupier of a factory or any owner of an iron or mine or a manganese ore mine fails to pay any amount payable b him to the Central Government under section 4 within the perio prescribed thereunder, such occupier or owner, as the case may be shall be liable to pay simple interest at twelve per cent, per annun on the amount to be paid from the date on which such payments i due till such amount is actually paid.

8. **Penalty for non-payment of duty of excise within the prescribed period.**—If any duty of excise payable by the occupier o the metallurgical factory or the owner of the iron ore mine, o manganese ore mine to the Central Government under Section 4 i not paid to that Government within the period prescribed there under, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after such inquiry as it deems fit impose on the occupier of the metallurgical factory or, as the cas may be, on the owner of the iron ore mine or manganese ore mine penalty not exceeding the amount of duty of excise in arrears:

Provided that before imposing any such penalty such occupier or such owner, as the case may be, shall be given a reasonabl opportunity of being heard and, if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

9. **Recovery of amounts due under the Act.**—Any amount du under this Act (including the interest or penalty, if any, payabl under section 7 or section 8, as the case may be) from any occupie of a metallurgical factory or any owner of an iron ore mine or manganese ore mine may be recovered by the Central Government i the same manner as an arrear of land revenue.

10. **Penalty for evasion of duty of excise.**—(1) Whoeve wilfully or intentionally evades or attemps to evade the payment o duty of excise payable by him to the Central Government under thi Act, shall, on conviction, be punishable with imprisonment whic may extend to six months, or with fine which may extend to on thousand rupees, or with both.

(2) No court shall take cognizance of an offence punishabl under this section, save on a complaint made by, or under th authority of, the Central Government

11. **Offences by companies** —(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due dilgience to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

12 **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of the Central Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

13. **Repeal and saving.**—(1) As from the commencement of this Act, the Iron Ore Mines Labour Welfare Cess Act, 1961, (58 of 1961) shall stand repealed.

(2) (a) The amount collected as cess, under the Act repealed by sub-section (1), shall be credited to the Consolidated Fund of India.

(b) The Central Government may, after due appropriation made by Parliament by law in this behalf, credit to the Fund an amount not exceeding the proceeds of cess credited under clause (a), after deducting the cost of collection as determined by the Government.

14 **Power to make rules** —(1) The Central Government may, by notification in the Official Gazette. and subject to the condition of previous publication, make rules for carrying out the provisions of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the assessment and collection of the duty of customs or duty of excise levied under section 3 ;

(b) the making of refunds, remissions and recoveries of the duty of customs or duty of excise levied under section 3 ;

(c) the period within which the person selling or otherwise disposing of the iron ore or manganese ore to the occupier of the metallurgical factory shall pay the duty of excise to such occupier under sub-section (2) of section 4 ;

(d) the period within which the owner of the iron ore mine or manganese ore mine shall pay the duty of excise to the Central Government under sub-section (2) of section 4 ;

(e) the manner in which the occupier of the metallurgical factory shall collect the duty of excise under sub-section (3) of section 4 ;

(f) the period within which the occupier of the metallurgical factory shall pay to the Central Government the duty of excise collected by him under sub-section (3) of section 4 ;

(g) the authority which may impose any penalty under section 8 ;

(h) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) In making any rule under clause (c) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bl'lore.

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 68 LCA 76

*Bangalore, dated the 30th August 1976.*

Ordered that the Labour Provident Fund Laws (Amendment) Ordinance, 1976 Published in Part II, Section (1) of the *Gazette of India* Extraordinary dated 17th July 1976 be republished in the *Karnataka Gazette*, for general information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO,

*I/c. Under Secy. to Govt.,*

52 *Dept. of Law and Parly. Affairs.*

### GOVERNMENT OF INDIA

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

**(Legislative Department)**

*New Delhi, the 17th July, 1976/Asadha 26, 1898 (Saka)*

### THE LABOUR PROVIDENT FUND LAWS (AMENDMENT) ORDINANCE, 1976

No. 9 OF 1976

Promulgated by the President in the Twenty-seventh Year of the Republic of India.

An Ordinance further to amend the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948, the Employees' Provident Funds and Family Pension Fund Act, 1952, the Wealth-tax Act, 1957 and the Income-tax Act, 1961.

WHEREAS Parliament is not in session and the President is satisfied that circumstance exist which render it necessary for him to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause(1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

## CHAPTER I

### PRELIMINARY

1 **Short title and commencement.**—(1) This Ordinance may be called the Labour Provident Fund Laws (Amendment) Ordinance, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Acts 46 of 1948, 19 of 1952, 27 of 1957 and 43 of 1961 to be temporarily amended.** During the period of operation of this Ordinance, the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 (hereinafter referred to as the Coal Mines Act), the Employees' Provident Funds and Family Pension Fund Act, 1952 (hereinafter referred to as the Employees' Provident Fund Act), the Wealth-tax Act, 1957 and the Income-tax Act, 1961, shall have effect subject to the amendments specified in Section 3 to 37.

## CHAPTER II

### AMENDMENT OF THE COAL MINES PROVINDENT FUND, FAMILY PENSION AND BONUS SCHEMES ACT, 1948

3. **Amendment of long title.**—In the long title ro the Coal Mines Act, (46 of 1948) after the words "Family Pension Scheme", the words "a Deposit-linked Insurance Scheme" shall be inserted.

4. **Amendment of Section 1.**—For sub-section (1) of Section 1 of the Coal Mines Act; the following sub section shall be substituted namely:—

"(1) This Act may be called the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948".

5. **Amendmont of Section 2**—In Section 2 of the Coal Mine Act,—

(*i*) In clause (*c*), after the words "Coal Mines Provident Fund Scheme", the words "or the Insurance Scheme, as the case may be", shall be inserted;

(*ii*) After clause (*f*) the following clauses shall be inserted namely:—

'(*fa*) "Insurance Fund" means the Deposit-linked Insurance Fund established under sub-section (*2*) of section 3G;

(*fb*) "Insurance Scheme" means the Coal Mines Deposit linked Insurance Scheme Framed under sub-section (*1*) of section 3G,;

(*iii*) Clause (*ff*) shall be re-lettered as clause (*fc*);

(iv) In clause (g) the words "or, as the case may be, the Insurance Fund" shall be inserted at the end.

6 **Amendment of Section 3A.**—In Section 3A of the Coal Mines Act,—

(a) In sub-section (3), after the word, figure and letter "section 3E", the words figure and letter "and section 3G" shall be inserted;

(b) In sub-section (4), for the words "and the Coal Mines Family Pension Scheme", the words", the Coal Mines Family pension Scheme and the Insurance Scheme" shall be substituted.

7 **Amendment of Section 3C.**—In sub-section (3) of section 3C of the Coal Mines Act, for the words "and the Coal Mines Family Pension Scheme", the words", the Coal Mines Family Pension Scheme and the Insurance Scheme" shall be substituted.

8. **Insertion of new section 3G.**—After section 3F of the Coal Mines Act, the following section shall be inserted namely:—

'3G **Coal Mines Deposit linked Insurance Scheme.**—(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Coal Mines Deposit linked Insurance Scheme for the purpose of providing life assurance benefits to such employees as are covered by the Coal Mines Provident Fund Scheme.

(2) There shall be established, as soon as may be, after the framing of the Insurance Scheme, a Deposit linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee, in relation to whom he is the employer, such amount, not being more than one per cent, of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee as the Central Government may, by notificatson in the Official Gazette, specify.

*Explanation.*—For the purposes of this sub-section—

(a) the expression "basic wages' has the meaning assigned to it in the employees' Provident Funds and Miscellaneous Provisions Act, 1952; (19 of 1952)

(b) "dearness allowance" means all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living and shall be deemed to include also the cash value of any food concession allowed to the employee;

(c) "retaining allowance" means an allowance payable for the time being to an employee of any coal mine during any period in which the coal mine is not working for retaining his services.

(3) The Central Government shall, after due appropriation made by Parliament by law, contribute to the Insurance Fund in

relation to each employee covered by the Coal Mines Provident Fund Scheme, an amount representing one-half of the contribution which an employer is required, by sub-section (2), to make.

(4) (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section (2) as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that Scheme.

(b) The Central Government shall, after due appropriation made by Parliament by law, pay into the Insurance Fund such further sums of money representing one-half of the sums payable by the employer under clause (*a*), to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that Scheme.

(5) The Insurance Fund shall vest in the Board and shall be administered by the Board in such manner as may be specified in the Insurance Scheme.

(6) Any scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Third Schedule."

**9. Amendment of Section 5.**—In sub-section (2) of section 5 of the Coal Mines Act, for the words "Third Schedule", the words "Fourth Schedule" shall be substituted.

**10. Amendment of Section 7.**—In section 7 of the Coal Mines Act, after the words "amend or vary", the words "either prospectively or retrospectively" shall be inserted.

**11. Amendment of Section 7A.**—In section 7A of the Coal Mines Act, for the words "two succe-sive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

**12. Amendment of section 8.**—In sub-section (3) of section 8 of the Coal Mines Act, after the words "Coal Mines Family Pension Scheme" the words "and also in relation to any amount payable under the Insurance Scheme" shall be inserted

**13. Amendment of Section 10.**—In sub-section (1) of section 10 of the Coal Mines Act, after the words "Coal Mines Provident Fund Scheme", the words "or the Insurence Scheme" shall be inserted.

14. **Amendment of section 10E.**—In sub-section (1) of section 10E of the Coal Mines Act, for the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution)" the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution in pursuance of the Coal Mines Provident Fund Scheme and the employer's contribution in pursuance of the Insurance Scheme)" shall be substituted.

15. **Insertion of new sections 11C and 11D.**—After section 11B of the Coal Mines Act, the following sections shall be inserted, namely —

'11C. **Power to exempt.**—(1) The Central Government may, if requested so to do by the employer, by notification in the Official Gazette and subject to such conditions as may be specified in the notification, exempt any coal mine from the operation of all or any of the provisions of the Insurance Scheme, if it is satisfied that the employees of such coal mine are, without making any separate contribution or payment of premium, in enjoyment of benefits in the nature of life assurance, whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme.

(2) Without prejudice to the provisions of sub-section (1), the Insurance Scheme may provide for the exemption of any person or class of persons employed in any coal mine and covered by the scheme from the operation of all or any of the provisions thereof, if the benefits in the nature of life assurance admissible to such person or class of persons are more favourable than the benefits provided under the Insurance Scheme.

(3) Where, in respect of any person or class of persons employed in any coal mine, an exemption is granted under this section from the operation of all or any of the provisions of the Insurance Scheme (whether such exemption is granted to the coal mine wherein such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such coal mine—

(a) shall, in relation to the benefits in the nature of life assurance, to which any such person or class of persons is entitled, or any insurance fund, maintain such accounts submit such returns, make such investment, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct;

(b) shall not, at any time after the exemption without the leave of the Central Government, reduce the total quantum of benefit in the nature of life assurance to which any such person or class of persons was entitled immediately before the date of the exemption; and

(c) shall, where any such person leaves his employment and obtains re-employment in any other coal mine, transfer within such time as may be specified in this behalf by the Central Government,

he amount of accumulations to the credit of that person in the insu- ance fund of the coal mine left by him to the credit of that person's ccount in the insurance fund of the coal mine in which he is re-em- loyed or, as the case may be, in the Deposit-linked Insurance Fund

*Explanation.*—For the purposes of this sub-section "insurance und means any fund established by an employer under any scheme or providing benefits in the nature of life assurance to employees, whether linked to their deposits in provident fund or not, without ayment by the employees of any separate contribution or premium n that behalf.

(4) Any exemption granted under this section may be cancelled y the authority which granted it, by order in writing, if an employe ails to comply,—

(a) in the case of an exemption granted under sub-section 1), with any of the conditions imposed under that sub-section o ith any of the provisions of sub-section (3);

(b) in the case of an exemption granted under sub-section 2), with any of the provisions of sub-section (3).

(5) Where any exemption granted under sub-section (1) or sub ection (2) is cancelled, the amount of accumulations to the credit o very employee to whom such exemption applied, in the insurance und of the coal mine in which he is employed shall be transferred ithin such time and in such manner as may be specified in the nsurance Scheme to the credit of his account in the Insurance Fund

**11D. Act to have effect notwithstanding anything contained in ct 31 of 1956.**—The provisions of this Act shall have effect notwith tanding anything inconsistent therewith contained in the Life nsurance Corporation Act, 1956."

**16 Insertion of new Third Schedule.**—The Third Schedule to the oal Mines Act shall be re-numbered as the Fourth Schedule and efore the Fourth Schedule as so re-numbered, the following Schedule hall be inserted, namely:—

## THE THIRD SCHEDULE

(*See* Section 3G)

MATTERS TO BE PROVIDED FOR IN THE COAL MINES DEPOSIT-LINKED INSURANCE SCHEME

1 The employees or class of employees who shall be covered by he Insurance Scheme.

2 The manner in which the accounts of the Insurance Fund hall be kept and the investment of moneys belonging to the Insu ance Fund, subject to such pattern of investment as may be deter mined, by order, by the Central Government.

3 The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

4 The nomination of a person to receive the assurance amount due to the employee after his death and the cancellation or variation of such nomination.

5 The registers and records to be maintained in respect of employees, the form or design of any identity card, token or disc for the purpose of indentifying any employee or his nominee or member of family entitled to receive the assurance amount.

6 The scales of assurance amount which shall not be less than the average balance in the account of the employee concerned in the Insurance Fund during the period of three years immediately preceding his death or more than rupees ten thousand.

7 The minimum average balance to be maintained by an employee in the provident fund to make him eligible for the benefits under the scheme.

8 The manner in which the amount due to the nominee or the member of the family of the employee under the scheme is to be paid including a provision that the amount shall not be paid otherwise than in the form of a diposit in a savings bank account, in the name of such nominee or member of family, in any bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of undertakings) Act, 1970 (5 of 1970).

9 Any other matter which is to be provided for in the Insurance Scheme or which may be necessary or proper for the purpose of implementing that scheme".

'6C. **Employees' Deposit-linked Insurance Scheme.**—(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life assurance benefits to such employees as are covered by any Scheme.

(2) There shall be established, as soon as may be after the framing of the Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent. of the aggregate of the basic wages, dearness allowance (if any) for the time being payable in relation to such employee as the Central Government may, by notification in the Official Gazette, specify.

*Explanation.*—For the purposes of this sub-section, the expressions "dearness allowance" and "retaining allowance" have the same meaning as in section 6.

(3) The Central Government shall, after due appropriation made by Parliament by law, contribute to the Insurance Fund in relation to each employee covered by the Scheme an amount representing one-

half of the contribution which an employer is required, by sub-section (2), to make.

(4) (*a*) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-forth of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(*b*) The Central Government shall, after due appropriation made by Parliament by law, pay into the Insurance Fund such further sums of money representing one-half of the sums payable by the employer under clause (a) to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that Scheme.

(5) The Insurance Fund shall vest in the Board and be administered by it in such manner as may be specified in the Insurance Scheme.

(6) The Insurance Scheme may provide for all or any of the matters specified in Schedule IV.

(7) The Insurance Scheme may provide that any of the provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme."

23. **Amendment of section 7** :—In sub-section (1) of section 7 of the Provident Funds Act, for the words "amend or vary the Scheme or the Family Pension Scheme, as the case may be," the words 'amend or vary, either prospectively or retrospectively the Scheme, the Family Pension Scheme or the Insurance Scheme, as the case may be" shall be substituted.

## CHAPTER II

### AMENDMENT OF THE EMPLOYEES' PROVIDENT FUNDS AND PENSION FUND ACT, 1952

17. **Amendment of long title** .—In the long title to the Employees, Provident Funds Act, (19 of 1952), for the words "and family pension fund", the words "family pension fund and deposit-linked insurance fund" shall be substituted.

18. **Amendment of section 1**.—For sub-section (1) of section 1 of the Employees' Provident Funds Act, the following sub-section shall be substituted, namely :—

"(1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act."

19. **Amendment of section 2.**—In section 2 of the Employees' Provident Funds Act,—

(*a*) in clause (C), the words "or, as the case may be, the Insurance Scheme" shall be inserted at the end;

(*b*) in clause (*ff*), after the words "a Scheme", the words "or the Insurance Schemey, as the case may be," shall be inserted;

(*c*) in clause (*fff*), after the words "any Scheme", the words "or the Insurance Scheme, as the case may be" shall be inserted;

(*d*) clause (*ia*) shall be re-lettered as clause (*ic*) and before clause (*ic*) as so re-lettered, the following clauses shall be inserted namely:—

(*ia*) "Insurance Fund" means the Deposit-linked Insurance Fund established under sub-section (2) of section 6C;

(*ib*) "Insurance Scheme" means the Employees' Deposit-linked Insurance Scheme framed under sub-section (1) of section 6C;";

(*e*) in clause (*j*), the words "or, as the case may be, the Insurance Fund" shall be inserted at the end.

20. **Amendment of section 5A.**—In section 5A of the Employees' Provident Funds Act,—

(*a*) in sub-section (3), after the word, figure and letter "section 6A", the words, figure and letter " and section 6C" shall be inserted ; (*b*) in sub-section (4), the words " and the Family Pension Scheme", the words ", Family Pension Scheme and the Insurance Scheme" shall be substituted.

21. **Amendment of sections 5D and 5E.**—In sub-section (3) of section 5D, and section 5E, of the Employees' Provident Funds Act, for the words " and the Family Pension Scheme", the words ", the Family Pension Scheme and the Insurance Scheme" shall be substituted.

22. **Insertion of new section 6C.**—After section 6B of the Employees' Provident Funds Act, the following section shall be inserted, namely :—

24. **Amendment of Section 7A.**—In sub-section (1) of section 7A of the Employees' Provident Funds Act, after the words "Family Pension Scheme", the words "or the Insurance Scheme" shall be inserted.

25. **Amendment of Section 8.**—In clause (*a*) of section 8 of Employees 'Provident Funds Act, —

(*a*) for the word "Scheme", wherever it occurs. the words "Scheme or Insurance Scheme" shall be substituted;

(*b*) for the words ' the Fund", the words "the Fund or, as the case may be, the Insurance Fund" shall be substituted.

26. **Amendment of Section 8A.**—In section 8A of the Employees ovident Funds Act,—

(*a*) in sub-section (*1*), for the words and brackets "The nount of contribution (that is to say the employer's contribution well as the employee,s contribution)", the words and brackets 'The nount of contribution (that is to say the employer's contribution well as employee,s contribution in pursuance of any Scheme and e employer's contribution in pursuance of the Insurance Scheme)" all be subsituted;

(*b*) in sub-section (*2*), after the words "employee's contribuon", the words "under any Scheme" shall be inserted.

27. **Amendment of Section 10.**—In sub-section (*3*) of section ) of the Employee's Provident Funds Act, after the words "Family ension Scheme" the words "and also in relation to any amount ayable under the Insuranee Scheme" shall be inserted.

28. **Amendment of Section 11.**—In section 11 of the Employees' rovident Funds Act,—

(*a*) in clause (*a*).—

(*i*) for the word "Scheme", in both the places where it occurs, he words 'Scheme or the Insurance Scheme" shall be subsituted;

(*ii*) after the words "the Fund", the words "or as the case ay be, the Insurance Fund" shall be inserted;

(*b*) in clause (*b*), for the words "the Provident fund" in both he places where they occur, the words "the provident fund or any nsurance fund" shall be substituted;

(*c*) the following Explanation shall be inserted at the end amely:—

'*Explanation:*—In this section and in section 17, "insurance und" means any fund established by an employer under any scheme or providing benefits in the nature of life assurance to employees whether linked to their deposits in provident fund or not, without ayment by the employees of any separate contribution or premium n that behalf;

29. **Amendment of Section 12.**—In section 12 of the Employee' rovident Funds Act:—

(*a*) for the word "Scheme" wherever it occurs, the word 'Scheme or the Insurance Scheme" shall be substituted;

(*b*) for the words "or provident fund", the words ' providen und or life assuranace" shall be substituted.

30. **Amendment of Sections 13, 14 and 14A.**—In section 13 ection 14 and section 14A of the Employees' Provident Funds Act or the words "the Family Pension Scheme", wherever they occu the words "the Family Pension Scheme or the Insurance Scheme' shall be substituted.

31. Amendment of Section 17.—In section 17 of the Employees, Provident Fund Act,—

(*a*) after sub-section (*2*), the following sub-sections shall be inserted namely:—

(*2A*) The Central Government may, if requsted so to do by the employer, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt any establishment from the operation of all or any of the provisions of the Insurance Scheme, if it is satisfied that the employees of such establishment are without making any separate contribution or pay-of premium, in enjoyment of benefits in the nature of life assurance whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme.

(*2B*) Without prejudice to the provisions of sub-section (*1*), the Insurance Scheme may provide for the exemption of any person or class of persons employed in any establishment and covered by that scheme from the operation of all are any of the provisions thereof, if the benefits in the nature of life assurance admissible to such person or class of persons are more favourable than the benefits provided under the Insurance Scheme, ;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) Where, in respect of any person or class of person employed in any establishment, an exemption is granted under sub-section (*2A*) or sub-section (*2B*) from the operation of all or any of the provisions of the Insurance Scheme (whether such exemption is granted to the establishment wherein such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such establishment—

(*a*) shall, in relation to the benefits in the nature of life assurance, to which any such person or class of persons is entitled, or any insurance fund, maintain such accounts, submit such returns, make such investments, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct ;

(*b*) shall not, at any time after the exemption without the leave of the Central Government, reduce the total quantum of benefits in the nature of life assurance to which any such person or class of persons was entitled immediately before the date of the exemption; and

(*c*) shall, where any such person leaves his employment and obtains re-employment in any other establishment to which this Act applies, transfer within such time as may be specified in this behalf by the Central Government, the amount of accumulations to the credit of that person in the insurance fund of the establishment left by him to the credit of that person's account in the insurance

fund of the establishment in which he is re-employed or, as the case may be, in the Deposit-linked Insurance Fund.";

(*c*) in sub-section (4), after clause (*b*), the following clauses shall be inserted, namely:—

"(*c*) in the case of an exemption granted under sub-section (*2A*), with any of the conditions imposed under that sub-section or with any of the provisions of sub-section (*3A*);

(*d*) in the case of an exemption granted under sub-section with any of the provision of sub-section (*3A*).";

(*d*) in sub-section (5),—

(*i*) for the words, brackets and figure "or sub-section (2)", the words brackets, figures and letter, "sub-section 2, sub-section (*2A*) or sub-section (*2B*)" shall be substituted;

(*ii*) for the words "or the family pension fund", the words "the family pension fund or the insurance fund" shall be substituted;

(*iii*) after the words "Family Pension Scheme", the words "or the Insurance Scheme" shall be inserted;

(*iv*) after the words "Family Pension Fund", the words "or the Insurance Fund shall be inserted.

32. **Insertion of new section 17B.**—After section 17A of the Employees' Provident Fund Act, the following section shall be inserted, namely :

**17B. Act to have effect notwithstanding anything contained in Act 31 of 1956.**—The provisions of this Act shall have effect notwithstanding any thing inconsistent therewith contained in the Life Insurance Corporation Act, 1956.".

33. **Amendment of Section 18.**—In section 18 of the Employees' Provident Funds Act, the words "or the Insurance Scheme" shall be inserted at the end.

34. **Amendment of Section 19.**—In section 19 of the Employees' Provident Funds Act, in the opening paragraph, for the words "the Family Pension Scheme", the words "the Family Pension Scheme or the Insurance Scheme" shall be substituted.

35. **Insertion of new Schedule IV.**—After Schedule III to the Employees' Provident Funds Act, the following Schedule shall be inserted, namely :—

## SCHEDULE IV

(*See* Section 6C)

MATTERS TO BE PROVIDED FOR IN THE EMPLOYEES' DEPOSIT-LINKED INSURANCE SCHEME

1 The employees or class of employees who shall be covered by the Insurance Scheme.

2 The manner in which the accounts of the Insurance Fund shall be kept and the investment of moneys belonging to the Insurance Fund subject to such pattern of investment as may be determined, by order, by the Central Government.

3 The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

4 The nomination of a person to receive the assurance amount due to the employee after his death and the cancellation or variation of such nomination.

5 The registers and records to be maintained in respect of employees, the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or member of family entitled to receive the assurance amount.

6 The scales of assurance amount which shall not be less than the average balance in the account of the employee concerned in the Insurance Fund during a period of three years immediately preceding his death or more than rupees ten thousand.

7 The minimum average balance to be maintained by an employee in the provident fund to make him eligible for the benefits under the scheme.

8 The manner in which the amount due to the nominee or the member of the family of the employee under the scheme is to be paid including provision that the amount shall not be paid otherwise than in the form of a deposit in a savings bank account, in the name of such nominee or member of family, in any bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. (5 of 1970).

9 Any other matter which is to be provided for in the employees' Deposit-linked Insurance Scheme or which may be necessary or proper for the purpose of implementing the Scheme.".

## CHAPTER IV

### AMENDMENT OF THE WEALTH TAX ACT, 1957 AND THE INCOME TAX ACT, 1961

36. **Amendment of Act 27 of 1957.**—In the Wealth-tax Act, 1957, in sub-section (1) of section 5, after clause (xviib), the following clause shall be inserted, namely :—

"(*xviiba*) any property held—

(*a*) by the Board of Trustees constituted under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or

(*b*) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952),

on behalf of the Deposit-linked Insurance Fund established under section 6C of the Act;".

37. **Amendment of Act 43 of 1961.**—In the Income-tax Act, 1961,—

(*a*) in section 10, in clause (25), after sub-clause (iv), the following sub clause shall be inserted, namely :—

"(*v*) any income received—

(*a*) by the Board of Trustees constituted under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948, (46 of 1948) on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or

(*b*) by the Board of Trustees constituted under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act;" ;

(*b*) in section 17, in clause (2), in sub-clause (v), after the word "superannuation fund", the words, figures and letters "or a Deposit linked Insurance Fund established under section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or, as the case may be, section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)" shall be inserted.

[illegible]
*President.*

K. K. SUNDARAM,
*Secy. to the Govt. of India.*

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 75 LCA 76.

*Bangalore, dated 31st August 1976.*

Ordered that the Coal Mines (Nationalisation) Amendment Act, 1976 (Central Act No. 67 of 1976 published in Part II, Section 1 of the *Gazette of India*, Extraordinary dated 27th May 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO,

55 *Under Secretary to Govt., I/c., Dept. of Law and Parly. Affairs.*

Assented to on 27th May 1976. Act No. 67 of 1976.

## THE COAL MINES (NATIONALISATION) AMENDMENT ACT, 1976.

AN

ACT

*further to amend the Coal Mines (Nationalisation) Act, 1973.*

BE it enacted by Parliament in the Twenty-Seventh Year of the Republic of India as follows :—

1. **Short title and commencement** :—(1) This Act may be called the Coal Mines (Nationalisation) Amendment Act, 1976.

(2) Sections 2 and 3 of this Act shall be deemed to have come into force on the 29th day of April, 1976.

2. **Insertion of new section 1A.**—In the Coal Mines (Nationalisation) Act, 1973 (26 of 1973 (hereinafter referred to as the principal Act), after section 1, the following section shall be inserted, namely :—

"1A. **Declaration as to expediency of Union control.** (1) It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation and development of coal mines to the extent hereinafter provided in sub-sections (3) and (4) of section 3 and sub-section (2) of section 30.

(2) The declaration contained in sub-section (1) is in addition to, and not in derogation of, the declaration contained in section 2 of the Mines and Minerals (Regulation and Development) Act, 1957." (67 of 1957).

3. **Amendment of section 3** :—In section 3 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely :—

"(3) On and from the commencement of section 3 of the Coal Mines (Nationalisation) Amendment Act, 1976,—

(a) no person, other than—

(i) the Central Government or a Government company or a corporation owned, managed or controlled by the Central Government or

(ii) a person to whom a sub-lease, referred to in the proviso to clause (c), has been granted by any such Government, company or corporation, or

(iii) a company engaged in the production of iron and steel shall carry on coal mining operation, in India, in any form;

(b) excepting the mining leases granted before such commencement in favour of the Government, company or corporation referred to in clause (a), and any sub-lease granted by any such Government, company or corporation, all other mining leases and sub-leases in force immediately before such commencement, shall in so far as they relate to the winning or mining of coal, stand terminated;

(c) no lease for winning or mining coal shall be granted in favour of any person other than the Government, company or corporation, referred to in clause (a).

Provided that the Government, company or corporation to whom a lease for winning or mining coal has been granted may grant a sub lease to any person in any area on such terms and conditions as may be specified in the instrument granting the sub-lease, if the Government, company or corporation is satisfied that—

(i) the reserves of coal in the area are in isolated small pockets or are not sufficient for scientific and economical development in a co-ordinated and integrated manner, and

(ii) the coal produced by the sub-lessee will not be required to be transported by rail.

(4) Where a mining lease stands terminated under sub-section (3), it shall be lawful for the Central Government or a Government, company or corporation owned or controlled by the Central Government to obtain, notwithstanding anything contained in sub-section (2), or in the proviso to sub-section (2) of section 3 of the Coal Mines (Taking Over of Management) Act, 1973 (15 of 1973) a prospecting licence or a mining lease in respect of the whole or part of the land covered by the mining lease which stands so terminated.".

4 **Amendment of Section 30.**—Section 30 of the principal Act shall be re-numbered as sub-section (1) of that section, and, after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Any person who engages or causes any other person to be engaged in winning or mining coal from the whole or part of any land in respect of which no valid prospecting licence or mining lease or sub-lease is in force, shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees".

5. **Repeal.**—The Coal Mines (Nationalisation) Amendment Ordinance, 1976, (Ordinance 3 of 1976.) is hereby repealed.

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 74 LCA 76.

*Bangalore, dated 31st August 1976.*

Ordered that the Pharmacy (Amendment) Act, 1976 (Central Act No. 70 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 27th May 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO,
*Under Secy. to Govt., I/C.,*
54 *Dept. of Law and Parly. Affairs.*

Assented to on 27th May 1976 Act No. 70 of 1976

## THE PHARMACY (AMENDMENT) ACT, 1976

AN

ACT

*further to amend the Pharmacy Act, 1948*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. (*1*) **Short title and commencement** :—This Act may be called the Pharmacy (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of section 2.**—In section 2 of the Pharmacy Act, 1948 (8 of 1948) hereinafter referred to as the principal Act),-

(*a*) for clause (*c*), (*d*) and (*e*), the following clauses shall be substituted, namely :—

(*c*) "Central Council" means the Pharmacy Council of India constituted under section 3 ;

(*d*) "Central Register" means the register of phramacists maintained by the Central Council under section 15A ;

(*da*) "Executive Committee" means the Executive Committee of the Central Council or of the State Council, as the context may require ;

(*e*) "Indian University" means a University within the meaning of section 3 of the University Grants Commission Act, 1956 (3 of 1956) and includes such other institutions, being institutions established by or under a Central Act, as the Central Government may, by notification in the Official Gazette, specify in this behalf' ;

(*b*) for clauses (*h*), (*i*) and (*j*), the following clauses shall be substituted, namely :—

"(*h*) "register" means a register of pharmacists prepared and maintained under Chapter IV ;

(*i*) "registered pharmacist" means a person whose name is for the time being entered in the register of the State in which he is for the time being residing or carrying on his profession or business of pharmacy;

(*j*) "State Council" means a State Council of Pharmacy constituted under section 19, and includes a Joint State Council of Pharmacy constituted in accordance with an agreement under section 20;

(*k*) "University Grants Commission" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956)'

3. **Amendment of section 3.**—In section 3 of the principal Act,–

(*a*) in clause (*a*), for the words "authority known as the Inter-University Board", the words "University Grants Commission" shall be substituted ;

(*b*) in clause (*b*), for the word "three", the word "four" shall be substituted ;

(*c*) for clause (*f*), the following clause shall be substituted, namely :—

"(*f*) a representative of the University Grants Commission and a representative of the All India Council for Technical Education ;"

(*d*) in clause (*g*), after the word "elected", the words "from amongst themselves" shall be inserted ;

(*e*) in clause (*h*),—

(*i*) the words "either a registered medical practitioner or" shall be omitted ;

(*ii*) for the proviso, the following proviso shall be substituted, namely :—

"Provided that for five years from the date on which the Pharmacy (Amendment) Act, 1976, comes into force the Government of each Union Territory shall, instead of electing a member under clause (*g*), nominate one member, being a person eligible for registration under section 31, to represent that territory." ;

(*iii*) the *Explanation* appearing at the end shall be omitted.

4. **Amendment of section 5.**—In section 5 of the principal Act,–

(*a*) In sub-section (*2*), for the words "An elected President", the words "The President" shall be substituted ;

(b) to sub-section (2), the following proviso shall be added namely :—

"Provided that if his term of office as a member of the Centra Council expires before the expiry of the full term for which he i elected as President or Vice-President, he shall, if he is re-elected o re-nominated as a member of the Central Council, continue to hol office as President or Vice-President for the full term for which he i elected to such office.".

5. **Amendment of section 7.**—In section 7 of the principal Act in sub-section (1), the words "other than a nominated President," shall be omitted.

6. **Substitution of new section for section 8.**—For section 8 o the principal Act, the following section shall be substituted, namely

"8. **Staff remuneration and allowances.**—The Central Counei shall—

(a) appoint a Registrar who shall act as the Secretary to tha Council and who may also, if deemed expedient by that Council, ac as the Treasurer thereof;

(b) appoint such other officers and servants as that Counei deems necessary to enable it to carry out its functions under thi Act;

(c) require and take from the Registrar, or any other office or servant, such security for the due performance of his duties a that Council may consider necessary; and

(d) with the previous sanction of the Central Government, fix—

(i) the remuneration and allowances to be paid to the President, Vice-President, and other members of that Council,

(ii) the pay and allowances and other conditions of service of officers and servants of that Council."

7. **Insertion of new section 9A.**—After section 9 of the principa Act, the following section shall be inserted, namel :—

"9A. **Other committees.**—(1) The Central Council may constitute from among its members other committees for such genera or special purposes as that Council may deem necessary and for such periods not exceeding five years as it may specify, and may co-op for a like period persons, who are not members of the Central Counei as members of such committees.

(2) The remuneration and allowances to be paid to the members of such committees shall be fixed by the Central Counci with the previous sanction of the Central Government.

(3) The business before such committees shall be conducted in accordance with such regulations as may be made under this Act.".

8. **Amendment of section 14.**—In section 14 of the principal Act, after the words "shall be deemed", the words, "subject to such additional conditions, if any, as may be specified by the Central Council," shall be inserted.

9. **Insertion of new sections 15A and 15B.**—After section 15 of the principal Act, the following sections shall be inserted namely :—

"**15A. The Central Register.**—(1) The Central Council shall cause to be maintained in the prescribed manner a register of pharmacists to be known as the Central Register, which shall contain the names of all persons for the time being entered in the register for a State.

(2) Each State Council shall supply to the Central Council five copies of the register for the State as soon as may be after the first day of April of each year, and the Registrar of each State Council, shall inform the Central Council, without delay, all additions to, and other amendments in, the register for the State made from time to time.

(3) It shall be the duty of the Registrar of the Central Council to keep the Central Register in accordance with the orders made by the Central Council, and from time to time to revise the Central Register and publish it in the Gazette of India.

(4) The Central Register shall be deemed to be public document within the meaning of the Indian Evidence Act, 1872(1 of 1872) and may be proved by the production of a copy of the Register as published in the Gazette of India.

**15B Registration in the Central Register.**—The Registrar of the Central Council shall, on receipt of the report of registration of a person in the register for a State, enter his name in the Central Register".

10. **Amendment of section 17.**—In section 17 of the principal Act,—

(a) in sub-section (1), the words "together with an abstract of its accounts" shall be omitted ;

(b) in sub-section (2), for the words "copy or abstract", the words "or copy" shall be substituted.

11. **Insertion of new section 17A.**—After section 17 of the principal Act, the following section shall be inserted, namely :—

"**17A. Accounts and audit.**—(1) The Central Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Central Council shall be audited annually by the Comptroller and Auditor-General of India or any person authorised by him in this behalf and any expenditure incurred by him or any person so authorised in connection with such audit shall be payable by the Central Council to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person authorised by him in connection with the audit of the accounts of the Central Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General of India has in connection with the audit of Government accounts, andit particular, shall have the right to demand the production of books of accounts, connected vouchers and other documents and papers.

(4) The accounts of the Central Council as certified by the Comptroller and Auditor-General of India or any person authorised by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Council which shall forward the same with its comments to the Central Government."

12. **Amendment of section 18.**—In section 18 of the principal Act, in sub-section (2),—

(a) for clause (a), the following clause shall be substituted, namely :—

"(a) the management of the property of the Central Council;";

(b) in clause (f),—

(i) for the word "Secretary", the words "Registrar, Secretary" shall be substituted ;

(ii) for the word "Treasurer", the words "Registrar or any other officer or servant" shall be substituted ;

(c) after clause (f), the following clauses shall be inserted namely :—

"(g) the manner in which the Central Register shall be maintained and given publicity ;

(h) constitution and functions of the committees other than Executive Committee, the summoning and holding of meetings thereof, the time and place at which such meetings shall be held, and the number of members necessary to constitute the quorum".

13. **Amendment of section 19.**—In section 19 of the principal Act.—

(a) in clause (b),—

(i) for the word "two", the "word three" shall be substituted ;

(ii) for the words "members of the pharmaceutical profession", the words "registered pharmasists" shall be substituted ;

(b) in clauses (dd) and (e), for the words and figures "Drugs Act, 23 of 1940, the words and figures "Drugs and Cosmetics Act, 1940" 23 of 1940 shall be substituted ;

(c) in the proviso, for the words "member of pharmaceutical profession". the words "registered pharmacist" shall be substituted.

14. **Amendment of section 21**.—In section 21 of the principal Act,—

(a) in sub-section (1), in clauses (dd) and (e), for the words and figures "Drugs Act, 1940", 23 of 1940 the words and figures "Drugs and Cosmetis Act, 1940". 23 of 1940. shall be substituted ;

(b) in sub-section (3),—

(i) for the words "at least half". the words "more than half" shall be substituted ;

(ii) for the words "members of the pharmaceutical profession". the words "registered pharmacists" shall be substituted.

15 **Amendmenf of section 23**..—In section 23 of the Principal Act,—

(*a*) in sub-section (2), for the words "An elected President", the words "The President" shall be substituted ;

(*b*) to sub-section (2), the following proviso shall be added, namely :—

"Provided that if his term of office as a member of the State Council expires before the expiry of the full term for which he is elected as President or Vice-President, he shall, if he is re-elected or re-nominated as a member of the State Council, continue to hold office for the full term for which he is elected as President or Vice-President."

16 **Insertion of new section 26A**.— After section 26 of the Principal Act, following section shall be inserted, namely :—

**Inspection**.—"26A (1) A State Council may, with the previous sanction of the State Government, appoint Inspectors having the prescribed qualifications for the purposes of Chapters III, IV and V of this Act.

(2) An Inspector may—

(a) inspect any premises where drugs are compounded or dispensed and submit a written report to the Registrar ;

(b) enquire whether a person who is engaged in compounding or dispensing of drugs is a registered pharmacist ;

(c) investigate any complaint made in writing in respect of any contravention of this Act and report to the Registrar ;

(d) institute prosecution under the order of the Executive Committee of the State Council ;

(e) exercise such other powers as may be necessary for carrying out the purposes of Chapters III, IV and V of this Act or any rules made thereunder.

(3) Any person wilfully obstructing an Inspector in the exercise of the powers conferred on him by or under this Act or any rules made thereunder shall be punishable with imprisonment for a term which may extended to six months, or with fine not exceeding one thousand rupees, or with both.

(4) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code." (45 of 1860.)

**17. Insertion of new section 32B.**—After section 32A of the principal Act, the following section shall be inserted, namely :—

"**32B. Special provisions for registration of displaced persons, repatriates and other persons.**—(*1*) Notwithstanding anything contained in section 32 or section 32A, a State Council may permit to be entered on the register—

(*a*) the names of persons who possess the qualifications specified in clause (*a*) or clause (*c*) of section 31 and who were eligible for registration between the closing of the First Register and the date when the Education Regulations came into effect.

(*b*) the names of persons approved as "qualified persons" before the 31st December, 1969 for compounding or dispensing of medicines under the Drugs and Cosmetics Act, 1940 (23 of 1940) and the rules made thereunder ;

(*c*) the names of displaced persons or repatriates who were carrying on business or profession of pharmacy as their principal means of livelihood in any country outside India for a total period of not less than five years from a date prior to the date of application for registration.

Explanation —In this sub-section.,—

(*i*) "displaced person" means any person who, on account of civil disturbances or the fear of such disturbances in any area now forming part of Bangla Desh, has, after the 14th day of April, 1947 but before the 25th day of March, 1971, left, or has been displaced from, his place of residence in such area and who has since then residing in India ;

(*ii*) "repatriate" means any person of Indian origin who, on account of civil disturbances or the fear of such disturbances in any area now forming part of Burma, Sri Lanka or Uganda, or any other country has, after the 14th day of April, 1957, left or has been displaced from, his place of residence in such area and who has since then been residing in India.

(2) The provisions of clauses (a) and (b) of sub-section (1 shall remain in operation for a period of two years from th commencement of the Pharmacy (Amendment) Act, 1976.'

18. **Amendment of section 36**.—In section 36 of the principa Act, in sub-section (1), in clause (e) of the proviso, for the word and figures "Drugs Act, 1940", (23 of 1940) the words and figure "Drugs and Cosmetics Act, 1940" (23 of 1940) shall be substituted.

19. **Amendment of section 42**.—In section 42 of the principa Act, in sub-section (1), after the existing proviso, the followin proviso shall be added, namely :—

"Provided further that where no such date is appointed by the Government of a State, this sub-section shall take effect in that State on the expiry of five years from the commencement of the Pharmacy (Amendment) Act, 1976."

20. **Amendment of section 46**.—In Section 46 of the principa Act, in sub-section (2), after clause (f), the following clause shall b inserted, namely:—

"(ff) the qualifications, powers and duties of an Inspector ;"

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore

## PART IV

SECTION—1-B

### CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 73 LCA 1976.

*Bangalore, dated 31st/August/1st September 1976.*

Ordered that the Merchant Shipping (Amendment) Act, 1976 (Central Act No. 69 of 1976) published in Part II, Section 1 of the *Gazette of India* Extraordinary dated 27th May 1976 be republished in the *Karnataka Gazette*, for general information.

By Order and in the name of the Governor of Karnataka,
M. BALAJI RAO,
53 *Under Secy. to Govt., I/c., Dept. of Law and Parly. Affairs.*

Assented to on 27th May 1976 Act No.....of 1976

### THE MERCHANT SHIPPING (AMENDMENT) ACT, 1976

AN

ACT

*further to amend the Merchant Shipping Act, 1958.*

BE it enacted by Parliament in the Twenty-Seventh Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Merchant Shipping (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions.

2. **Change of nomenclature of unberthed passenger ship and unberthed passenger.**—In the Merchant Shipping Act, 1958 (44 of 1958) (hereinafter referred to as the principal Act), for the words "unberthed passenger shipes", "an unberthed passenger ship", "unberthed passenger ", "an unberthed passenger" and "unberthed passenger", wherever they occur, the words "special trade passenger ships", "a special trade passenger ship", "special trade passenger ship", "special trade passengers", " a special trade passenger" and "special trade passenger" shall respectively be substituted.

3. **Amendment of section 3**—In section 3 of the principal Act,—

(a) for clauses (27) and (28), the following clauses shall be substituted, namely :—

'(27) "pilgrimage" means pilgrimage to any holy place in the Hedjaz or to any other place declared by the Central Government to be a place of pilgrimage by notification in the Official Gazette ;

(28) "pilgrim ship" means a special trade passenger ship which makes a voyage to or from the Hedjaz, or, as the case may be, to or from any other place of piligrimage declared as such by the Central Government in pursuance of clause (27), during the season of the pilgrimage and which carries pilgrims in a proportion of not less than one pilgrim for every one hundred tons of the gross tonnage of the ship ;' ;

n i) )qclause (38), after sub-clause (i), the following sub-clauses shansel bll eirted, namely :—

"(*ia*) special trade passenger ship safety certificate,

(*ib*) spicial trade passenger ship space certificate,";

(c) after clause (47), the following clauses shall be inserted, namely :—

'(47A) "special trade" means the conveyance of large number of passengers by sea within prescribed sea areas ;

(47B) "special trade passenger" means a passenger carried in special trade passenger ship in spaces on the weather deck or upper deck or between decks which accommodate more than eight passengers and includes a pilgrim or a person accompanying a pilgrim ;

(47C) "special trade passenger ship" means a mechanically propelled ship carrying more than thirty special trade passengers;';

(d) clauses (51) and (52) shall be omitted.

4. **Amendment of Section 240:**—In section 240 of the principal Act—

(a) for sub-section (1), the following sub-sections shall be substituted, namely :—

"(1) A ship intended to carry special trade passengers between ports or places in India shall not commence a voyage from any port or place appointed under sub-section (1) of section 237, unles the master holds certificates to the effect mentioned in sections 241 and 242.

(1A) A ship intended to carry special trade passengers from or to a port or place in India to or from a port or place outside India shallnot commence a voyage from any port or place appointed under sub section (1) of section 237, unless the master holds—

(i) a passenger ship safety certificate :—

(ii) an exemption certificate ;

(iii) a special trade passenger ship safety certificate ;

(iv) a special trade passenger ship space certificate : and

(v) a certificate referred to in section

(b) in sub-section (2), for the words "unless the master holds the aforesaid certificates", the words, brackets, figures and letter "unless the master holds the appropriate certificate for the voyage specified in sub-section (1), or as the case may be, in sub-section (1A)" shall be substituted.

5. **Substitution of new section for section 241.**—For section 241 of the principal Act, the following section shall be substituted, namely :—

"241. **Contents of certificate A.**—(1) The first of the certificates referred to in sub section (1) of section 240 (hereinafter called certificate A) shall be in the prescribed form and contain such particulars as may be prescribed.

(2) In particular and without prejudice to the generality of the foregoing power, certificate A shall contian the following statements and particulars, namely :—

(*i*) that the ship is seaworthy ;

(*ii*) that the ship is properly equipped, fitted and ventilated ;

(*iii*) the number of special trade passengers the ship is certified to carry ; and

(*iv*) such other particulars as may be prescribed.

(3) Certificate A shall remain in force for a period of one year from the date of issue or for such shorter period as may be specified therein.".

6. **Amendment of section 242.**—In section 242 of the principal Act, for clause (*c*) the following clause shall be substituted namely :—

"(*c*) that the master holds—

(*i*) a certificate of survey and certificate A ; or

(*ii*) a passenger ship safety certificate accompanied by a exemption certificate, a special trade passenger ship safety certificate and a special trade passenger ship space certificate ; or

(*iii*) a nuclear passenger ship safety certificate ; '.

7. **Amendment of section 244.**—In section 244 of the principal Act, for the Proviso, the following proviso shall be substituted namely :—

" Provided that he shall not cause a ship holding a valid certificate referred to in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) of clause (*c*) of section 242 to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable grounds, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed ".

**8. Omission of heading below section 254.**—The heading "*Special Provisions relating to unberthed passenger ships*" occurring below section 254 of the principal Act shall be omitted.

**9. Amendment of section 255.**—In section 255 of the principal Act, after sub-section (2), the following sub sections shall be inserted, namely :—

"(3) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in India shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or promising or permitting any person to sell a passenger ticket to any pilgrim for conveyance by such ship, supply to the officer appointed in this behalf (hereinafter referred to as the pilgrim officer) at the port or place from which the ship is to commence the voyage, and at each port or place in India at which she is to touch for the purpose of embarking pilgrims, full particulars as to the name, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the manximum price of each class of passage tickets the probable date on which the ship is to sail from that port or place, the ports, if any, at which she is to touch, the place of her destination, and the probable date of her arrival thereat.

(4) The master, owner or agent of the ship shall supply to the pilgrim officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub-section (3) as that officer may in writing demand from him.

(5) (a) The master, owner or agent of the ship shall advertise at such port or place and in such manner as may be prescribed—

(i) the place of destination of the ship,

(ii) the price of each class of passage tickets which shall not be in excess of the price c mmunicated to the pilgrim officer under sub-section (3), and

(iii) the provisional date of sailing from that port or place.

(b) the master, owner or agent of the ship shall also advertise the final date of sailing not less than fifteen days before such date.

(6) No Master, owner or agent shall—

(a) without reasonable cause, the burden of proving which shall lie upon him, fail or refuse to supply any particulars or information which he is by or under this section required to supply or supply false particulars or information ; or

(b) advertaise any ship for the conveyance of pilgrims, or offer to convey pilgrims by any ship, or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (3) and in accordance with the provisions of that sub-section ; or

(c) advertise a price for passage tickets at the port or place in excess of the price communicated to the pilgrim officer under sub-section (3) ; or

(d) offer to convey pilgrims by any ship from any port or place in India or sell or promise or permit any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having advertised as required by clause (*a*) of sub-section (5), the matters specified in that clause ; or

(*e*) sell or permit any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the pilgrim officer under sub-section (3). ".

**10. Amendment of section 256.**—Section 256 of the principal Act shall be re-numbered as sub-section (1) of that section, and

(*a*) in sub-section (1) as so re-numbered, after the words 'the certifying officer ', the words "or such other officer as the Central Government may appoint in this behalf" shall be inserted ;

(*b*) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) In either of the following cases, namely :—

(*a*) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within India appointed under this Part for the embarkation of pilgrims, or

(*b*) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any port or place outside India, the master shall obtain a fresh certificate B from the certifying officer or such other officer as the Central Government may appoint in this behalf at that port or place, and shall make an additional statement specifying the number and the respective sexes of all the additional pilgrims. ".

**11. Amendment of section 257.**—In section 257 of the principal Act,—

(*a*) in sub-sections (1) and (2), after the words "certifying officer", the words "or such other officer as the Central Government may appoint in this behalf" shall be inserted;

(*b*) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(3) The master of every pilgrim ship departing or proceeding from any port or place in India shall sign a statement in duplicate in the prescribed form specifying the total number of all the pilgrims embarked and the number of piligrims of each sex embarked and the number of the crew and such other particulars as may be prescribed and shall deliver both copies to the certifying officer or such other

officer as the Central Government may appoint in this behalf at the port or place and such officer shall there-upon, after having first satisfied himself that the entries are correct, countersign and return to the master one copy of the statement.

(4) The master of every pilgrim ship arriving at any port or place in India at which it may be intended to discharge pilgrims, shall, before any pilgrim disembark, deliver a statement signed by him specifying the total number of all the pilgrims on board and the number of pilgrims of each sex and the number of the crew, and such other particulars as may be prescribed to the certifying officer or such other officer as the Central Government may appoint in this behalf at the port or place.".

12. **Amendment of section 258.**—In section 258 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

(3) The master of every pilgrim ship shall note in writing on the copy of the additional statement referred to in sub-section (2) of section 256 or of the statement referred to in sub-sections (3) and (4) of section 257, the date and supposed cause of death of any piligrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place where it may be intended to discharge pilgrims, and befor any pilgrims disembark, produce the statement, with any additions made thereto,—

(*a*) where such port or place is in India, to the certifying officer or such other officer as the Central Government may appoint in this behalf;

(*b*) where such port or place is outside India, to the Indian consular officer.".

13. **Amendment of section 259.**—In section 259 of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) (*a*) Every pilgrim ship carrying pilgrims and crew not exceeding one thousand in number shall have on board a medical officer possessing such qualifications as may be prescribed, and, if the number of pilgrims and crew carried exceeds one thousand, a second medical officer similarly qualified and also in all cases such medical attendants as may be prescribed.

(*b*) A medical officer of every pilgrim ship shall perform such duties and functions, keep such diaries and submit such reports or other returns, as may be prescribed.

(*c*) No medical officer or attendant on a pligrim ship shall charge any pilgrim on such ship for his services.".

14. **Insertion of new sections 261A, 261B and 261C.**—After section 261 of the principal Act, the following sections shall be inserted, namely :—

"261A. **Bunks to be provided for passengers.**—Every special trade passenger ship making a voyage the duration of which, in ordinary circumstances, may extend to seventy-two hours or more shall provide for each passenger on board a bunk of the prescribed size and particulars.

261B. **Space to be provided for passengers when bunks are not provided.**—Every special trade passenger ship making a voyage the duration of which, in ordinary circumstances, may not extend to seventy two hours, shall provide space for each passenger at the prescribed scale.

261C. **Airing space to be provided for passengers.**—Every special trade passenger ship shall have reserved as airing space for the use of passengers on board, gratuitously by day and by night, so much of the upper deck as is not required for the airing space of the crew or for permanent structure :

Provided that the upper deck space so provided for passengers shall in no case be less than 0·37 square metre for each passenger.".

15. **Omission of section 263.**—Section 263 of the principal Act and the heading "*Special provisions regarding piligrim ships*" occurring before that section shall be omitted.

16. **Substitution of new section for section 264.**—For section 264 of the principal Act, the following section shall be substituted, namely :—

"264. **Hospital accommodation.**—Every special trade passenger ship certified to carry more than one hundred passengers on a voyage the duration of which, in ordinary circumstances, may extend to forty-eight hours or more, shall provide on board a hospital offering such conditions relating to security, space, health and sanitation, and capable of accommodating such proportion of the maximum number of passengers the ship is certified to carry, as may be prescribed.".

17. **Omission of sections 235 to 269 and section 278.**—Sections 265 to 269 (both inclusive) and section 278 of the principal Act shall be omitted.

18. **Amendment of section 279.**—In section 279 of the principal Act, in sub-sections (1) and (5), for the words, brackets, letter and figures "clause (b) of sub-section (3) of section 278", the words, letter and figures "clause (b) of sub-section (5) of section 255" shall be substituted.

19. **Amendment of section 280.**—In section 280 of the principal Act, for the figures "278", in the two places where they occur, the figures "255" shall be substituted.

20. **Amendment of section 282.**—In section 282 of the principal Act—

(i) in clause (j), for the words and figures "sections 265 and 268", the word and figures "section 257" shall be substituted;

(ii) in clause (s), for the word and figures "section 278", the word and figures "section 255" shall be substituted.

21. **Amendment of section 284.**—In section 284 of the principal Act, after sub-section (2), the following proviso shall be inserted, namely :—

"Provided that different requirements may be specified for special trade passenger ships.".

22. **Amendment of section 299.**—In section 299 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) Where on receipt of a declaration of survey granted under Part VIII in respect of a special trade passenger ship or a pilgrim ship, the Central Government is satisfied that the ship complies with the provisions of this Act and the rules made thereunder relating to construction, life saving appliances and space requirements, it may in addition to the certificates referred to in sub-sections (1) and (2), issue in respect of the ship a special trade passenger ship safety certificate and a special trade passenger ship space certificate.".

23. **Amendment of section 304.**—In section 304 of the principal Act,—

(*a*) In sub-section (1), after the words "a passenger ship safety certificate", the words "or a special trade passenger ship safety certificate" shall be inserted;

(*b*) In sub-section (2), for the words "safety convention certificate", the words "passenger ship safety certificate or special trade passenger ship safety certificate" shall be substituted.

24. **Amendment of section 307.**—In section 307 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) No Indian passenger ship shall proceed on a voyage from any port or place in India to any port or place outside India.

(*a*) if the ship is a ship, other than a special trade passenger ship, unless there is in force in respect of the ship either—

(i) a passenger ship, safety certificate issued under section 299; or

(ii) a qualified passenger ship safety certificate issued unde section 299 and an exemption certificate issued under section 302 ;

(*b*) if the ship is a special trade passenger ship, unless ther is in force in respect of the ship the certificate referred to in sub clause (i) of clause (a) or the certificates referred to in sub-clause (i of that clause and a special trade passenger ship safety certificat and a special trade passenger ship space certificate,

being in each case a certificate which by the terms thereof is appl cable to the voyage on which the ship is about to proceed and to th trade in which she is for the time being engaged.".

25. **Amendment of section 436.**—In section 436 of the princi pal Act, sub-section (2), in the Table,—

(*a*) after Serial No. 89 and the entries relating thereto, th following shall be inserted, namely :—

| | | | |
|---|---|---|---|
| "89A | If a master, owner or agent contravenes sub-section (6) of section 255. | 255(6) | Fine whic may extend t two thousan rupees." ; |

(*b*) after Serial No. 90 and the entries relating thereto, th following shall be inserted, namely :—

| | | | | |
|---|---|---|---|---|
| "90A | (a) If medical officers and attendants are not carried on a pilgrim ship in accordance with clause (a) of sub-section (4) of section 259; or | 259 | (4) | (a) The master, owne or agent shall b liable for each voy age made in contra vention of claus (a) of sub-sectio (4) of section 25 to fine which may extend to three hundred rupees ; |
| | (B) If a medical officer or attendant or a pilgrim ship contravenes clause (c) of sub-section (4) of section 259; | 259 | (4) | (C) fine which may ex tend to two hundre r |

(C) Serial Nos. 92 and 93 shall be omitted.

26. **Amendment of section 459.**—In section 459 of the principa Act, in sub-section (3), for the words "two successive sessions, an if before the expiry of the session in which it is so laid or the sessio immediately following" the words "two or more successive session and if, before the expiry of the session immediately following th session or the successive sessions aforesaid" shall be substituted.

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 79 LCA 1976

*Bangalore, dated 14th September 1976*

Ordered that the Tariff Commission (Repeal) Act, 1976 (71 of 76) published in Part II, Section 1 of the *Gazette of India*, Extraordinary dated 29th May 1976 be republished in the *Karnataka Gazette* for General information.

By Order and in the name of the Governor of Karnataka,

K. R. RAMASWAMY IYENGAR,
*Assistant Draftsman and* Ex-Officio,
*Deputy Secretary to Government.*
56 *Dept. of Law and Parliamentary Affairs.*

Assented to on 28th May 1976 Act No. 71 of 1976

## THE TARIFF COMMISSION (REPEAL) ACT, 1976

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN ACT

*to repeal the Tariff Commission Act, 1951.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Tariff Commission (Repeal) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazett, appointe.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date on which this Act comes into force ;

(b) "Tariff Commission" means the Tariff Commission established under the Tariff Commission Act, 1951. (50 of 1951).

3. **Repeal of Act 50 of 1951 and abolition of the Tariff Commission.**—On the appointed day, the Tariff Commission Act, 1951 (hereinafter referred to as the principal Act), shall stand repealed, and the Tariff Commission shall cease to exist.

4. **Consequential provisions.**—(1) Any inquiry under section 13 of the Principal Act, pending immediately before the appointed day shall, on the appointed day, terminate :

Provided that nothing contained in this sub-section shall be deemed to affect the powers of the Central Government to appoint a commission or other body to inquire into any matter to which any such inquiry is relatable.

(2) Where a commission or other body has been appointed to inquire into any matter under the proviso to sub-section (1), any information relating to any industry which has been obtained by or on behalf of the Tariff Commission for the purpose of its functions under the principal Act, may, notwithstanding anything contained in section 22 of the principal Act, be made available by the Central Government to the commission or other body aforesaid for the purpose of the relevant inquiry:

Provided that the said commission or other body shall not in turn disclose any such information unless such disclosure is made with the previous consent in writing of the owner for the time being of the industry concerned and it is necessary for the purposes of the inquiry so to do:

Provided further that nothing in this sub-section shall apply to the disclosure of any such information for the purpose of—

(i) any legal proceeding which may be taken in pursuance of the findings of such a commission or other body, or

(ii) any report relating to any such proceedings.

(3) If any person discloses any information in contravention of sub-section (2), he shall be punishable on conviction with fine, which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

(4) Anything, or any action, which ought to have been done or taken by the Tariff Commission before the appointed day with respect to the termination of service of its employees or with respect to any matter in relation thereto or arising therefrom, but not so done or taken by that Commission may, on and from the appointed day, be done or taken by the Central Government.

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Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

# PART IV

Office of the Minister for Major and Medium ...

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCES

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW. 76 LCA 76.

*Bangalore, dated 14th September 1976.*

Ordered that the Additional Emoluments (Compulsory Deposit) Amendment Act, 1976 (74 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 11th June 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

K. R. RAMASWAMY IYENGAR,
*Assistant Draftsman and Ex-officio,*
*Deputy Secretary to Government,*
*Dept. of Law Parly. Affs.*

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Assented to on 11th June 1976. Act, No. 74 of 19

## THE ADDITIONAL EMOLUMENTS (COMPULSO DEPOSIT) AMENDMENT ACT, 1976

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT

*to amend the Additional Emoluments (Compulsory Deposit) Act 1974.*

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title:** This Act may be called the Additional Emoluments (Compulsory Deposit) Amendment Act, 1976.

2. **Amendment of section 6:** In section 6 of the Additional Emoluments (Compulsory Deposit) Act, 1974 (37 of 1974) (hereinafter referred to as the principal Act), in clause (b) of sub-section (1), for the words "two years", the words "three years" shall be substituted.

**3. Amendment of Section 9.** In section 9 of the principal Act,—

(i) in sub-section (1),—

(A) for clause (b) the following clause shall be substituted namely :—

"(b) in the case of an amount credited to the Additional Dearness Allowance Deposit Account,—

(i) for any period ending on the 30th day of June, 1976, in cash, at any time after the expiry of two years from the appointed day ; and

(ii) for any period ending after the 30th day of June, 1976,—

(a) by crediting to the provident fund account of the employee, at any time after the expiry of a period of four years from the appointed day, if such employee is a subscriber to any provident fund ;

(b) in cash, at any time after the expiry of a period of four years from the appointed day, in the case of an employee who is not a subscriber to any provident fund ;

(B) in the third proviso, for the words "either or both of the Deposit Accounts shall be repaid to him", the words "the Additional Wages Deposit Account shall be repaid to him in cash" shal be substituted ;

(ii) in sub-section (2),—

(a) for the words "any Deposit Account", the words "any Additional Wages Deposit Account" shall be substituted ;

(b) the words "or two years, as the case may be," shall be omitted ;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely :—

"(3) The aggregate amount credited to the Additional Dearness Allowance Deposit Account by or in relation to an employee for the period ending on the 30th day of June, 1976, shall, subject to the provisions of sub-section (5), be repaid, in cash, to the employee in five equal annual instalments commencing from the expiry of a period of two years from the appointed day, together with interest due on the whole or, as the case may be, part of the amount of compulsory deposit which remains unpaid.

(4) The aggregate amount credited to the Additional Dearness Allawance Deposit Account by or in relation to an employee for the period commencing on the 1st day of July, 1976, and ending on the 5th day of July, 1977, together with interest due on the whole, or,

as the case may be, part of the amount of compulsory deposit which remains unpaid, shall, subject to the provisions of sub-section (5), be repaid to the employee in five equal annual instalments commencing on the 6th day of July, 1978, and each such instalment shall be credited to the provident fund account of the employee :

Provided that the employer shall not be required to make any contribution under the Employees Provident Funds Act, 1952, (19 of 1952.) or under any other law for the time baing in force, in relation to the amounts so credited to the provident fund account of the employee :

Provided further that, in the case of the employees who do not subscribe to any provident fund, the aggregate amount so repayable shall be repaid in cash in five equal annual instalments commencing on the 6th day of July, 1978.

(5) On the superannuation. resignation or termination of employment of an employee, the whole of the amount standing to the credit of such employee in the Additional Dearness Allowance Deposit Account, shall be repaid,—

(a) in cash, in the case of any amount credited to the Additional Dearness Allowance Deposit Account for any period ending on the 30th day of June, 1976 ;

(b) in the ease of any amount credited to the Additional Dearness Allowance Deposit Account for any period ending after the 30th day of June, 1976,

(i) by crediting such amount to the provident fund account of such employee, if he is the subscriber of any such account, or deposit

(ii) in cash, where such employee is not a subscribes to any provident fund.

*Explanation.*— For the purposes of this section, "provident fund" has the meaning assigned to it in section 2(e) of the Provident Funds Act 1925 (19 of 1925).'.

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Notification, No. LAW. 77 LCA. 1976.

*Bangalore, dated 14th September, 1976.*

Ordered that the Banking and Public Financial Institutions Laws (Amendment) Act, 1976 (73 of 1976) Published in Part II, Section 1 of the Gazette of India, Extraordinary dated 11th June 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka

K. R. RAMASWAMY IYENGAR,
*Assistant Draftsman and* Ex-officio *Deputy Secretary to Government, Dept. of Law and Parliamentary Affair*

Assented to on 11th June 1976 Act No. 73 of 1976

# THE BANKING AND PUBLIC INSTITUTIONS LAWS (AMENDMENT) ACT, 1976

AN

ACT

*further to amend the Industrial Finance Corporation Act, 1948, the State Bank of India Act, 1955, the Industrial Development Bank of India Act 1964, and the Regional Rural Banks Act, 1976.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

## CHAPTER I

### PRELIMINARY

1. **Short title.**—This Act may be called the Banking and Public Financial Institutions Laws (Amendment) Act, 1976.

2. **Construction of references.**—Any reference in sections (3)(i), 4(ii), 5(i) and 6(i) of this Act to the chairman or, as the case may be, vice-chairman or managing director shall be construed as including a reference to the person holding office as such at the commencement of this Act.

## CHAPTER II

### AMENDMENTS TO THE INDUSTRIAL FINANCE CORPORATION ACT, 1948

3. **Amendment of Act 15 of 1948.**—In the Industrial Finance Corporation Act, 1948,—

(i) in section 10A, after sub-section (2), the following sub-section shall be inserted, namely :

"(2A) Notwithstanding anything contained in sub-section (2), the Central Government shall have the right to terminate the term of office of the Chairman at any time before the expiry of the term specified in sub-section (2) by giving him notice of not less than three months in writing or three months' salary and allowances in lieu of such notice; and the Chairman shall also have the right to relinquish his office at any time before the expiry of the term specified in sub-section (2) by giving to the Central Government notice of not less than three months in writing " ;

(ii) in section 10B, after sub-section (1), the following proviso shall be added, namely :—

"Provided that no person shall be removed from his office, under this sub-section, unless he has been given an opportunity of showing cause against his removal"

## CHAPTER III

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

**4. Amendment of Act 23 of 1955.**—In the State Bank of Indi Act, 1955,—

(i) insection 19, in sub-section (1),—

(*a*) in clause (a) the words "and after consideration, of the recommendations made by the Central Board in that behalf" shall be omitted;

(b) in claus (b). for the words "by the Central Board with the approval of the Central Government", the words "by the Central Government in consultation with the Reserve Bank" shall be substituted ;

(ii) in section 20,—

(a) in sub-section (1), for the words "The chairman and the vice-chairman", the words "The chairman, vice-chairman and each managing director" shall be substituted ;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) Notwithstanding anything contained in sub section (1), the Central Government shall have the right to terminate the term of office of the chairman, vice-chairman or a managing director, as the case may be, at any time before the expiry of the term fixed under sub-section (1) by giving him notice of not less than three months in writing or three months' salary and allowances in lieu of such notice; and the chairman, vice-chairman or a managing director, as the case may be, shall also have the right to relinquish his office at any time before the expiry of the term so fixed by giving to the Central Government notice of not less than three months in writing." ;

(c) sub-section (2) shall be omitted ;

(iii) in section 23, in clause (b), for the [illegible] vice-chairman", the words "chairman, vice-chairman and a managing director" shall be substituted :

(iv) in section 24,—

(a) in sub-section (1), for the words "the chairman or the vice-chairman", the words "the chairman vice-chairman or a managing director" shall be substituted ;

(b) sub section (2) shall be omitted ;

(c) in sub-section (6). the words, brackets and figure "or sub-section (2)" shall be omitted ;

(v) in section 25, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) If the chairman, vice-chairman or a managing director is rendered incapable of discharging his duties by reason of infirmity or otherwise or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Central Government may, in consultation with the Reserve Bank, appoint another person to officiate in the vacancy " ;

(vi) in section 27, in sub-section (2),—

(a) for the words "as may be determined by the Central Board with the approval of the Central Government:", the words "as may be determined by the Central Government." shall be substituted ;

(b) the proviso shall be omitted ;

(vii) in section 28, in sub-section (2),—

(a) for the words "as may be determined by the Central Board with the approval of the Central Government: ', the words "as may be determined by the Central Government." shall be substituted ;

(b) the proviso shall be omitted ;

(viii) in section 29, in sub-section (2),—

(a) for the words "as may be determined by the Central Board with the approval of the Central Government:", the words "as may be determined by the Central Government." shall be substituted ;

(b) the proviso shall be omitted.

## CHAPTER IV

### AMENDMENTS TO THE INDUSTRIAL DEVELOPMENT BANK OF INDIA ACT, 1964

5. **Amendment of Act 18 of 1964.**—In the Industrial Development Bank of India Act, 1964 in section 6,—

(i) after sub-section (2), the following sub-section shall be inserted, namely :—

"(2A) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the term of office of the chairman or managing director, as the case may be, at any time before the expiry of the term specified under sub-section (2) by giving him notice of not less than three months in writing or three months' salary and allowances in lieu of such notice ; and the chairman or managing director, as the case may be, shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section by giving to the Central Government notice of not less than

(ii) after sub-section (3) the following sub-section shall be inserted, namely:—

"(3A) The Central Government may at any time, remove the chairman or the managing director, as the case may be, from office:

Provided that no person shall be removed from his office, under this sub-section, unless he has been given an opportunity of showing cause against his removal."

## CHAPTER V

AMENDMENTS TO THE REGIONAL RURAL BANKS ACT, 1976

6. **Amendment of Act 21 of 1976.**—In the Regional Rural Banks Act, 1976, in section 11,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the term of office of the Chairman at any time before the expiry of the period specified under sub-section (1) by giving him notice of not less than three months in writing or three months' salary and allowances in lieu of such notice and the Chairman shall also have the right to relinquish his office at any time before the expiry of the period so specified by giving to the Central Government notice of not less than three months;

(ii) for sub-section (4), the following sub-section shall be substituted, namely :—

"(4) The Central Government may, at any time, remove the Chairman from office:

Provided that no person shall be removed from his office, under this sub-section, unless he has been given an opportunity of showing cause against his removal.".

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Notification No. LAW 81 LCA 76.

*Bangalore, dated 14th September 1976.*

Ordered that the Beedi Workers Welfare Fund Act, 1976 (62 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 10th April 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

K. R. RAMASWAMY IYENGAR,
*Assistant Draftsman and Ex-officio Deputy Secretary to Government, Dept. of Law and Parly. Affairs.*

*Assented to on 10th April 1976. Act No. 62 of 1976.*

## THE BEEDI WORKERS WELFARE FUND ACT, 1976
(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT

*to provide for the financing of measures to promote the welfare of person engaged in beedi establishments.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title, extent and commencement.**—(*1*) This Act may be called the Beedi Workers Welfare Fund Act, 1976.

(*2*) It extends to the whole of India.

(*3*) It shall come into force in a State on such date, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas in the State and for different provisions of this Act.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "Fund" means the Beedi Workers Welfare Fund formed under section 3;

(*b*) a person is said to be engaged in an establishment if he is engaged in that establishment, directly or through any agency, whether for wages or not, for doing any work, skilled, unskilled, manual or clerical and includes—

(*i*) any person who is given raw materials by an employer or a contractor for being made into beedi at home, and

(*ii*) any person not engaged by an employer or a contractor but working with the permission of or under agreement with, the employer or contractor;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) words and expressions used but not defined in this Act and defined in the Beedi and Cigar Workers (Conditions of Empoyment) Act, 1966. (32 of 1966) shall have the meanings respectively assigned to them in that Act in so far as they relate to a person engaged in beedi establishments.

3. **Beedi Workers Welfare Fund.**—There shall be formed a Fund to be called the Beedi Workers Welfare Fund and there shall be credited thereto—

(*a*) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of cess credited under section 4 of the Beedi

Workers Welfare Cess Act, 1976, after deducting the cost of collection as determined by the Central Government under this Act;

(b) any income from investment of the amount credited under the Act referred to in clause (a) and any other moneys received by the Central Government for the purposes of this Act.

4. **Application of Fund**:—(1) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons engaged in beedi establishments; and in particular—

(a) to defray the cost of measures for the benefit of such persons directed towards—

(i) the improvement of public health and sanitation, prevention of disease and the provision and improvement of medical facilities;

(ii) the provision and improvement of water supplies and facilities for washing;

(iii) the provision and improvement of educational facilities;

(iv) the provision and improvement of housing and recreational facilities including standards of living, nutrition and amelioration of social conditions;

(v) the provision and improvement of such other welfare measures and facilities as may be prescribed;

(b) to grant loan or subsidy to a State Government, a local authority or an employer in aid of any scheme approved by the Central Government for the purpose connected with the welfare of persons engaged in beedi establishments:

(c) to pay annually Grants-in-aid to State Government, or a local authority or to an employer who provides to the satisfaction of the Central Government welfare measures and facilities of the prescribed standard for the benefit of persons engaged in beedi establishments, so however, that the amount payable as grants-in-aid to any such State Government, local authority or employer shall not exceed—

(i) the amount spent in providing welfare measures and facilities as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed,

whichever is less:

Provided that no grant-in-said shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf;

(d) to meet the allowances, if any, of the members of the Advisory Committees and the Central Advisory Committee consti

tuted under sections 5 and 6 respectively and the salaries and allowances, if any, of persons appointed under section 8 ;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(2) The Central Government shall have power to decide whether any particular expend ture is or is not debitable to the Fund and its decision shall be final.

5. **Advisory Committees** :—(1) The Central Government may constitute as many Advisory Committees as it thinks fit but not exceeding one for each of the principal beedi producing States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed :

Provided that each Advisory Committee shall include an equal number of members representing Government, the employers and persons engaged in beedi establishments and that at least one member of such Committee shall be a woman.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of every Advisory Committee.

6. **Central Advisory Committee** :—(1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed :

Provided that the Central Advisory Committee shall include an equal number of members representing the Government, the employers and persons engaged in beedi establishments and that at least one member of such Committee shall be a woman.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Central Advisory Committee.

7. **Power to co-opt**.—(1) An Advisory Committee or the Central Advisory Committee may, at any time and for such period as it think fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

(3) The Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he shall not be entitled to vote there at.

8. **Appointment of Welfare Commissioners, etc., and their powers.**– (1) The Central Government may appoint as many Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff as it thinks necessary for the purposes of this Act and the Beedi Workers Welrare Cess Act, 1976.

(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for the purposes of this Act and the Beedi Workers Welfare Cess Act, 1976,

(3) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. (45 of 1860).

(4) Any Welfare Commissioner, Welfare Administrator or Inspector may,—

(*a*) with such assistance, if any, as he may think fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act;

(*b*) do within such place anything necessary for the proper discharge of his duties; and

(*c*) exercise such other powers as may be prescribed.

9. **Power of Central Government to exempt.**—Notwithstanding anything contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of persons engaged in beedi establishments, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not apply or shall apply to such State or part thereof subject to such exemptions and modification as may be specified in the notification.

10. **Annual report of activities financed under the Act.**—The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of its activities financed under this Act during the previous financial year together with a statement of accounts.

11. **Power to call for information.**—The Central Government may require a State Government or a local authority or any employer

to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

12. **Power to make rules.**—(*1*) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the manner in which the Fund may be applied for the measures and facilities specified in sub section (*1*) of section 4;

(*b*) the conditions governing the grant of loan or subsidy under clause (*b*) of sub-section (*1*) of scetion 4;

(*c*) the conditions governing grant-in-aid under clause (c) of sub-section (*1*) of section 4;

(*d*) the standard of welfare measures and facilities to be provided under clause (c) of sub-section (*1*) of scetion 4;

(*e*) the determination of the amounts referred to in sub-clause (*ii*) of clause (c) of sub-section (*1*) of section 4 and the proviso to that clause;

(*f*) the composition of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively, the manner in which the members, thereof shall be chosen, the term of office of such members the all wances, if any, payable to them, and the manner in which the Advisory Committees and the Central Advisory Committee shall conduct their business;

(*g*) the recruitment, conditions of service and the duties of all persons appointed under section 8 ;

(*h*) the power that may be exercised by a Welfare Commissioner, a Welfare Administrator or an inspector under section 8 ;

(*i*) the furnishing to the Central Government by a State Government or a local authority or an employer of such statistical and other information as may be required to be furnished under section 11;

(j) the forms in which and the period within which statistical and other information are to be furnished under clause (i) '

(k) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) In making any rule under clause (*i*) or clause (*j*) of sub-section (*2*), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session

or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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Notification No. LAW 80 LCA 1976

*Bangalore, dated 14th September 1976.*

Ordered that the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976 (61 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 10th April 1976 bo republished in the *Karnataka Gazette*, for general information.

By Order and in the name of the Governor of Karnataka,

K. R. RAMASWAMY IYENGAR,
*Assistant Draftsman and* Ex-officio,
*Deputy Secy. to Govt.,*
61 *Department of Law and Parliamentary Affairs.*

Assented to on 10th April 1976, Act No. 61 of 1976.

## THE IRON ORE MINES AND MANGANESE ORE MINES LABOUR WELFARE FUND ACT, 1976

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT

*to provide for the financing of activities to promote the welfare of persons employed in the iron ore mines and manganese ore mines.*

BE it enacted by Parliament in the Twenty-seventh Year of the epublic of India as follows :—

**1. Short title, extent and commencement.**—(1) This Act may be called the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States :

Provided that the Central Government may, by notification in the Official Gazette, apply in the first instance the provisions of this Act, only to iron ore mines, or only to manganese ore mines, in a State with effect from such date as may be specified in the notification

and if that Government is satisfied that it is necessary or expedient so to do, it may extend this Act to all iron ore mines and manganese ore mines in that State with effect from such date as may be specified in the notification published in the Official Gazette.

2. **Definitions**.—In this Act, unless the context otherwise requires,—

(a) "agent" and "owner" have the the meanings respectively assigned to them in clauses (c) and (l) of sub-section (1) of section 2 of the Mines Act, 1952 : (35 of 1952).

(b) "contractor" has the meaning assigned to it in clause (c) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 ; (37 of 1970).

(c) "factory" and "occupier" have the meanings respectively assigned to them in clauses (m) and (n) of section 2 of the Factories Act, 1948 ; (63 of 1948).

(d) "Fund" means the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund formed under section 3 ;

(e) "manager" means the manager referred to in section 17 of the Mines Act, 1962 ; (35 of 1952)

(f) "manganese ore" includes ferrogenous manganese ore of ferro-manganese ore ;

(g) "metallurgical factory" means—

(i) a factory in which iron or steel or manganese is being processed or manufactured ;

(ii) any other factory, being a factory in which iron ore or manganese ore is used for any purpose which the Central Government may, by notification in the Official Gazette, declare to be a metallurgical factory for the purposes of this Act ;

(h) a person is said to be employed in an iron ore mine or manganese ore mine,—

(1) if he is employed within the premises or in the vicinity of such mine by the owner, agent or manager of such mine or by a contractor or any other agency exclusively in any one or more of the following, namely :—

(i) any iron or ore manganese ore mining operation ;

(ii) the operation, servicing, maintenance or repair of any machinery or any part thereof used in or about such mine ;

(iii) the loading, unloading or despatch of iron ore or manganese ore or any other material connected with the mining of iron ore or manganese ore ;

(iv) any work in any office, canteen or creche situated within the precincts of such mine ;

(v) any welfare, health, sanitary or conservancy services or any watch and ward duties at any place situated within such premises or vicinity, not being a place occupied by any residential building ; or

(2) if, in any such area as may be notified by the Central Government in the Official Gazette in this behalf, he is employed by the owner, agent or manager of such mine or by a contractor or any other agency exclusively in the loading, unloading or despatch of iron ore or manganese ore or any other material connected with the mining of iron ore or manganese ore ;

(i) "prescribed" means prescribed by rules made under this Act.

3. **Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund.**—There shall be formed a Fund, to be called the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund, and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of duty of customs and duty of excise collected under section 5 of the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976, after deducting therefrom, the cost of collection as determined by the Central Government under this Act ;

(b) any income from investment of the amount credited under the Act referred to in clause (a) and any other moneys received by the Central Government for the purposes of this Act.

4. **Application of Fund.**—The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons employed in the iron ore mines and manganese ore mines, and in particular,—

(a) to defray the cost of measures for the benfit of persons employed in the iron ore mines or manganese ore mines directed towards—

(i) the provision and improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities ;

(ii) the provision and improvement of water supplies and facilities for washing ;

(iii) the provision and improvement of educational facilities ;

(iv) the provision and improvement of housing and recreational facilities including standards of living nutrition and amelioration of social conditions ;

(v) the provision of transport to and from the place of work ;

(b) to grant loan or subsidy to a State Government, a local authority or the owner of an iron ore mine or of a manganese ore

mine, in aid of any scheme approved by the Central Government for any purpose connected with the welfare of persons employed in iron ore mines or manganese ore mines ;

(c) to any annually grants-in-aid to such of the owners of iron ore mines or manganese ore mines who provide to the satisfaction of the Central Government welfare measures of the prescribed standard for the benefit of persons employed in their mines, so, however, that the amount payable as grants-in-aid to such owners shall not exceed—

(i) the amount spent by them in the provision of welfare measures as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amonnt as may be prescribed,

whichever is less :

Provided that no grant-in-aid shall be payable in respect of any welfare measures provided by the owner of an iron ore mine or of a manganese ore mine where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf ;

(d) to meet the allowances, if any: of the members of the Advisory Committee and the Central Advisory Committee constituted under section 5 and section 6 respectively and the salaries and allowances, if any, of persons appointed under section 8.

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

5. **Advisory Committees.**—(1) The Central Government may,—

(a) constitute for each State which produces iron ore or manganese ore an Advisory Committee, or

(b) where both iron ore and manganese ore are produced in a State, constitute, for such State, an Advisory Committee in respect of iron ore only or manganese ore only, or in respect of both,

to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government of whom one shall be a woman and the members shall be chosen in such manner as may be prescribed :

Provided that each Advisory Committee shall include an equal number of members representing Government, the owners of iron ore mines and manganese ore mines and the pessons employed in the iron ore mines and manganese ore mines.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Officia Gazette the names of the members of every Advisory Committee.

**6. Central Advisory Committee.**—(1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed by the Central Government of whom one shall be a women and the members shall be chosen in such manner as may be prescribed:

Provided that the Central Advisory Committee shall include an equal number of members representing the Government, the owners of iron ore mines and manganese ore mines and the persons employed in the iron ore mines and manganese ore mines.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of the members of the Central Advisory Committee.

**7. Powers to co-opt, etc.**—(1) The Advisory Committee or the Central Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

(3) The Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he shall not be entitled to vote thereat.

**8. Appointment of Welfare Commissioners, etc., and their powers.**—(1) The Central Government may appoint as many Welfare Commissioners, Welfare Administrator, Inspectors and such other officers and staff as it thinks necessary for the purposes of this Act and the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976.

(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for the purposes of this Act and the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976.

(3) Every person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1960).

(4) Any Welfare Commissioner, Welfare Administrator or Inspector may,—

(a) with such assistance, if any, as he may think fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act;

(b) do within such place anything necessary for the prope discharge of his duties ; and

(c) exercise such other powers as may be prescribed.

9. **Power of Central Government to exempt.**—Notwi hstandin anything contained in this Act, if the Central Government is satisfie that there is in force in any State or part thereof a law makin adequate provision for the financing of activities to promote the wel fare of persons employed in the iron ore mines of manganese or mines, it may, by notification in the Official Gazette, direct that all o any of the provisions of this Act shall not apply or shall apply to suc State or part thereof subject to such exceptions and modifications a may be speci- fied in the notification.

10. **Annual report of activities financed under the Act.** -Th Central Government shall, as soon as may be after the end of eac financial year, cause to be published in the Official Gazette a repor giving an account of its activities financed under this Act during the previous financial year, together with a statement of accounts.

11. **Power to call for information.**—The Central Government may require an occupier of a metallurgical factory or the owner, agent or manager of an iron ore mine or of a manganese ore mine to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

12. **Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the Fund may be applied for the measures specified in section 4 ;

(b) the conditions governing the grant of loan or subsidy under clause (b) of section 4 ;

(c) the standard of welfare measures to be provided by owners of iron ore mines or manganese ore mines for the purposes of clause (c) of section 4 ;

(d) the determination of the amount referred to in sub-clause (ii) of clause (c) of section 4 and in the proviso to that clause ;

(e) the composition of the Advisory Committees and the Central Advisory Committee constituted under section 5 and section 6 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them including co-opted members and invitees, and the

manner in which the said Advisory Committees and the Central Advisory Committee shall conduct their business ;

(f) the recruitment conditions of service and the duties of all persons appointed under section 8 ;

(g) the powers that may be exercised by a Welfare Commissioner, Welfare Administrator or an Inspector under section 8 ;

(h) the furnishing to the Central Government by the occupiers of metallurgical factories and the owners, agents or managers of iron ore mines or of manganese ore mines, of such statistical and other information as may be required to be furnished, from time to time by that Government under section 11 ;

(i) the form in which and the period within which statistics and other information are to be furnished under clause (h) ;

(j) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) In making any rule under clause (h) or clause (i) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 78 LGA 76

*Bangalore, dated 14th September 1976.*

Ordered that the Life Insurance Corporation (Modification of Settlement Act, 1976 (72 of 1976) published in Part II, Section 1 of the *Gazette of India* Extraordinary dated 29th May 1976 be republished in the *Karnataka Gazette*, for general information.

By Order and in the name of the Governor of Kanata

K. R. RAMASWAMY IYENGAR,
*Asst. Draftsman and* Ex-Officio,
*Deputy Secretary to Government,*
58 *Dept. of Law and Parliamentary Affairs.*

Act No. 72 of 1976 Assented to on 29th May 1976

## THE LIFE INSURANCE CORPORATION (MODIFICATION OF SETTLEMENTS) ACT 1976

(As Passed by the Houses of Parliament)

AN

ACT

*to provide for the modification of the settlements arrived at between the Life Insurance Corporation of India and their workmen.*

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Life Insurance Corporation (Modification of Settlements) Act, 1976.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "Corporation" means the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956; (31 of 1956)

(*b*) "salary" means basic pay and includes—

(*i*) special pay, if any ;
(*ii*) dearness allowance ; and

(e) "settlements" means,—

(i) the settlement which was arrived at between the Corporation and their workmen on the 24th day of January, 1974, under section 18, read whith clause (p) of section 2, of the Industrial Disputes Act, 1947 (14 of 1947); and

(ii) the settlement which was arrived at between the Corporation and their workmen on the 6th day of February, 1974, under section 18, read with clause (p) of section 2, of the said Act and in respect of the terms of which there was no approval as provided for in sub-clause (2) of clause 12 thereof.

3. **Modification of settlements.**—Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), the provisions of each of the settlements, in so far as they relate to the ayment of any annual cash bonus to every Class III and Class IV employee of the Corporation at the rate of fifteen per cent of his pannual salary, shall not have any force or effect and shall not be deemed to have had any force or effect on and from the 1st day of April, 1975.

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**Notification No. LAW. 86 LCA 1976 (i)**

*Bangalore dated 28th September 1976.*

Ordered that the following Notification No. 11011/1/75 F. 1 (i) dated 3rd September 1976 of the Government of India, Ministry of Home Affairs be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO

*Under Secy. to Govt., Dept of Law and Parly. Affairs*

No. 11011/1/75/F-I (i)

**GOVERNMENT OF INDIA/BHARATH SARKAR.**

**Ministry of Home Affairs/Grih Manthralaya.**

*New Delhi 110001 the 3rd Sept. 1976. 12 Bhadra, 1898.*

**NOTIFICATION**

S. O. .—In pursuance of the Notification of the Government of India in the Ministry of Home Affairs No. S. O. 208 (e) dt. the 19th May 1975, The Central Government hereby appoints the 20th Sept 1976 as the date on which the Passport (Entry into India) Act, 1920 (34 of 1920) shall come into force in the State of Sikkim.

R. A. S. MANI,

*Deputy. Secy. to Govt. of India*

## LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW. 86 LCA 1976 (ii)

*Bangalore, dated the 28th September 1976.*

Ordered that the following Not fication No. 11011/1/75 F. 1 (il dated 3rd September 1976 of the Government of India, Ministry o Home Affairs be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka

B. NAGESHA RAO

64 *Under Secy. to Govt., Dept. of Law & Parliamentary Affairs*

No. 11011/1/75/F.I.(ii)

GOVERNMENT OF INDIA/BHARATH SARKAR

**Ministry of Home Affairs/Grih Mantralaya.**

*New Delhi 110001 the 3rd September 1976. 12 Bhadra 1898.*

NOTIFICATION

In exercise of the powers conferred by Section 3 of the Passpor (Entry into India) Act, 1920 (34 of 1920) the Central Governmen hereby directs that the Passport (Entry into India) Rules 1950, shal extend to and come into force in the State of Sikkim with effect o and from the 20th September 1976.

R. A. S MANI,

*Deputy Secy. to Govt. of India*

Notification No. LAW. 86 LCA 1976 (iii)

*Bangalore, dated the 28th September 1976.*

Ordered that the following Notification No. 11011/1/75 F. 1 (iii dated 3rd September 1976 of the Government of India, Ministry o Home Affairs be republished in the *Karnataka Gazette* for genera information.

By Order and in the name of the Governor of Karnataka

B. L. NAGESHA RAO,

*Under Secy. to Govt., Dept. of Law and Parliamentary Affairs*

No. 11011/1/75/F.I (iii).

GOVERNMENT OF INDIA/BHARTA SARKAR

**Ministry of Home Affairs/Grih Mantralaya.**

*New Delhi 110001 the 3rd September 1976, 12 Bhadra 1898,*

NOTIFICATION

G. S. R .—In exercise of the powers conferred by clause (1) of article 258 of the Constitution the President with the consent of the State Government of Sikkim hereby entrusts to the Government of the State of Sikkim the functions of the Central Government under Section 5 of the Passport (Entry into India) Act, 1920 (34 of 1920) and under rules 2 and 4 of Passport (Entry into India) Rule , 1950 subject to the following conditions namely ;

(a) that in the exercise of such functions the said State Government shall comply with such general or special directions as the Central Government may from time to time issue ; and

(b) that notwithstanding this entrustment the Central Government may itself exercise any of the said functions should it deem fit to do so, in any case.

R A. S MANI,

Deputy Secretary to Government of India

Printed by the Director of Printing, Stty & Publications at the Govt Press, Bl

# PART IV

## SECTION—1-B

## CENTRAL ACTS AND ORDINANCI

## GOVERNMENT OF KARNATAKA

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

*Notification No. LAW 89 LCA 76, Bangalore, dated 14th October,* 1976.

Ordered that the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 76) published in Part II, Section I of the Gazette of India Extraordinary dated 26th August 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

*Under Secretary to Government,*
*Dept. of Law and Parliamentary Affairs*

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

### (LEGISLATIVE DEPARTMENT)

*New Delhi, the 26th August,* 1976/ *Bhadra* 4, 1898 (*Saka*)

The following Act of Parliament received the assent of the President on the 25th August, 1976, and is hereby published for general information :—

# THE TERRITORIAL WATERS, CONTINENTAL SHELF, EXCLUSIVE ECONOMIC ZONE AND OTHER MARITIME ZONES ACT, 1976.

*No. 80 of 197*

[ ]

An Act to provide for certain matters relating to the territorial waters continental shelf, exclusive economic zone and other maritime zones of India.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

(2) Sections 5 and 7 shall come into force on such date or on such different dates as the Central Government may, by notification in the Official Gazette, appoint; and the remaining provisions of this Act shall come into force at once.

2. *Definition.*—In this Act, "limit", in relation to the territorial waters, the continental shelf, the exclusive economic zone or any other maritime zone of India, means the limit of such waters, shelf or zone with reference to the mainland of India as well as the individual or composite group or groups of islands constituting part of the territory of India.

3. *Sovereignty over, and limits of, territorial waters.*—(1) The sovereignty of India extends and has always extended to the territorial waters of India (hereinafter referred to as the territorial waters) and to the seabed and subsoil underlying, and the air-space over such waters.

(2) The limit of the territorial waters is the line every point of which is at a distance of twelve nautical miles from the nearest point of the appropriate baseline.

(3) Notwithstanding anything contained in sub-section (2), the Central Government may, whenever it considers necessary

so to do having regard to International Law and State practice, alter, by notification in the Official Gazette, the limit of the territorial waters.

(4) No notification shall be issued under sub-section (3) unless resolutions approving the issue of such notification are passed by both Houses of Parliament.

4. *Use of territorial waters by foreign ships.*—(1) Without prejudice to the provisions of any other law for the time being in force, all foreign ships (other than warships including submarines and other underwater vehicles) shall enjoy the right of innocent passage through the territorial waters.

*Explanation.*—For the purposes of this section, passage is innocent so long as it is not prejudicial to the peace, good order or security of India.

(2) Foreign warships, including submarines and other underwater vehicles may enter or pass through the territorial waters after giving prior notice to the Central Government:

Provided that submarines and other underwater vehicles shall navigate on the surface and show their flag while passing through such waters.

(3) The Central Government may, if satisfied that it is necessary so to do in the interests of the peace, good order or security of India or any part thereof, suspend, by notification in the Official Gazette, whether absolutely or subject to such exceptions and qualifications as may be specified in the notification, the entry of all or any class of foreign ships into such area of the territorial waters as may be specified in the notification.

5. *Contiguous zone of India.*—(1) The contiguous zone of India (hereinafter referred to as the contiguous zone) is an area beyond and adjacent to the territorial waters and the limit of the contiguous zone is the line every point of which is at a distance of twenty-four nautical miles from the nearest point of the baseline referred to in sub-section (2) of section 3.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, whenever it considers necessary so to do having regard to International Law and State practice, alter, by notification in the Official Gazette, the limit of the contiguous zone.

(3) No notification shall be issued under sub-section (2) unless resolutions approving the issue of such notification are passed by both Houses of Parliament.

(4) The Central Government may exercise such powers and take such measures in or in relation to the contiguous zone as it may consider necessary with respect to,—

(*a*) the security of India, and

(*b*) immigration, sanitation, customs and other fiscal matters.

(5) The Central Government may, by notification in the Official Gazette,—

(*a*) extend with such restrictions and modifications as it thinks fit, any enactment, relating to any matter referred to in clause (*a*) or clause (*b*) of sub-section (4), for the time being in force in India or any part thereof, to the contiguous zone, and

(*b*) make such provisions as it may consider necessary in such notification for facilitating the enforcement of such enactment,

and any enactment so extended shall have effect as if the contiguous zone is a part of the territory of India.

6. *Continental shelf.*—(1) The continental shelf of India (hereinafter referred to as the Continental shelf) comprises the seabed and subsoil of the submarine areas that extend beyond the limit of its territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baseline referred to in sub-section (2) of section 3 where the outer edge of the continental margin does not extend up to that distance.

(2) India has, and always had, full and exclusive soverign rights in respect of its continental shelf.

(3) Without prejudice to the generality of the provisions of sub-section (2), Union has in the continental shelf,—

(*a*) sovereign rights for the purposes of exploration, exploitation, conservation and management of all resources ;

(*b*) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the continental shelf or for the convenience of shipping or for any other purpose ;

(*c*) exclusive jurisdiction to authorise, regulate and control scientific research ; and

(*d*) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution.

(4) No person (including a foreign Government) shall, except under, and in accordance with, the terms of a licence or a letter of authority granted by the Central Government, explore the continental shelf or explore its resources or carry out any search or excavation or conduct any research within the continental shelf or drill therein or construct, maintain or operate any artificial island, off-shore terminal, installation or other structure or device therein for any purpose whatsoeve

(5) The Central Government may, by notification in the Official Gazette,—

(*a*) declare any area of the continental shelf and the superjacent waters to be a designated area ; and

(*b*) make such provisions as it may deem necessary with respect to,—

(i) the exploration, exploitation and protection of the resources of the continental shelf within such designated area ; or

(ii) the safety and protection of artificial islands, off-shore terminals, installations and other structures and devices in such designated area ; or

(iii) the protection of marine environment of such designated area ; or

(iv) customs and other fiscal matters in relation to such designated area.

*Explanation.*—A notification issued under this sub-section may provide for the regulation of entry into and passage through the designated area of foreign ships by the establishment of fairways, sealanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interests of India.

(6) The Central Government may, by notification in the Official Gazette,—

(*a*) extend with such restrictions and modifications as it thinks fit, any enactment for the time being in force in India or any part thereof to the continental shelf or any part [including any designated area under sub-section (*5*)] thereof ; and

(*b*) make such provisions as it may consider necessary for facilitating the enforcement of such enactment,

and any enactment so extended shall have effect as if the continental shelf or the part [including, as the case may be, any designated area under sub-section (*5*)] thereof to which it has been extended is a part of the territory of India.

(7) Without prejudice to the provisions of sub-section (2) and subject to any measures that may be necessary for protecting the interests of India, the Central Government may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf by foreign States :

Provided that the consent of the Central Government shall be necessary for the delineation of the course for the laying of such cables or pipelines.

7. Exclusive economic zone.—(1) The exclusive economic zone of India (hereinafter referred to as the exclusive economic zone) is an area beyond and adjacent to the territorial water

and the limit of such zone is two hundred nautical miles from the baseline referred to in sub-section (2) of section 3.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, whenever it considers necessary so to do having regard to International Law and State practice, alter, by notification in the Official Gazette, the limit of the exclusive economic zone.

(3) No notification shall be issued under sub-section (2) unless resolutions approving the issue of such notification are passed by both Houses of Parliament.

(4) In the exclusive economic zone, the Union has,—

(a) sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living as well as for producing energy from tides, winds and currents;

(b) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the zone or for the convenience of shipping, or for any other purpose;

(c) exclusive jurisdiction to authorise, regulate and control scientific research;

(d) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution; and

(e) such other rights as are recognised by International Law.

(5) No person (including a foreign Government) shall, except under, and in accordance with, the terms of any agreement with the Central Government or of a licence or a letter of authority granted by the Central Government, explore or exploit any resources of the exclusive economic zone or carry out any search or excavation or conduct any research within the exclusive economic zone or drill therein or construct, maintain or operate any artificial island, off-shore terminal, installation or other structure or device therein for any purpose whatsoever:

Provided that nothing in this sub-section shall apply in relation to fishing by a citizen of India.

(6) The Central Government may, by notification in the Official Gazette,—

(*a*) declare any area of the exclusive economic zone to be a designated area; and

(*b*) make such provisions as it may deem necessary with respect to,—

(i) the exploration, exploitation and protection of the resources of such designated area; or

(ii) other activities for the economic exploitation and exploration of such designated area such as the production of energy from tides, winds and currents; or

(iii) the safety and protection of artificial islands, offshore terminals, installations and other structures and devices in such designated area; or

(iv) the protection of ma[illegible] nated area; or

(v) customs and other fiscal matters in relation to such designated area.

*Explanation.*—A notification issued under this sub-section may provide for the regulation of entry into and passage through the designated area of foreign ships by the establishment of fairways, sealanes, traffic separation schemes or any other mode of ensuring freedom of navigation which is not prejudicial to the interests of India.

(7) The Central Government may, by notification in the fficial Gazette,—

(*a*) extend, with such restrictions and modifications as it thinks fit, any enactment for the time being in force in India or any part thereof to the exclusive economic zone or any part thereof; and

(*b*) make such provisions as it may consider necessary for facilitating the enforcement of such enactment,

and any enactment so extended shall have effect as if the exclusive economic zone or the part thereof to which it has been extended is a part of the territory of India.

(8) The provisions of sub-section (7) of section 6 shall apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the exclusive economic zone as they apply in relation to the laying or maintenance of submarine cables or pipelines on the seabed of the continental shelf.

(9) In the exclusive economic zone and the air space over the zone, ships and aircraft of all States shall, subject to the exercise by India of its rights within the zone, enjoy freedom of navigation and overflight.

8. *Historic waters.*—(1) The Central Government may, by notification in the Official Gazette, specify the limits of such waters adjacent to its land territory as are the historic waters of India.

(2) The sovereignty of India extends, and has always extended, to the historic waters of India and to the seabed and subsoil underlying, and the air space over, such waters.

9. *Maritime boundaries between India and States having coasts opposite or adjacent to those of India.*—(1) The maritime boundaries between India and any State whose coast is opposite or adjacent to that of India in regard to their respective territorial waters, contiguous zones, continental shelves, exclusive economic zones and other maritime zones shall be as determined by agreement (whether entered into before or after the commencement of this section) between India and such State and pending such agreement between India and any such State, and unless any other provisional arrangements are agreed to between them, the maritime boundaries between India and such State shall not extend beyond the line every point of which is equidistant from the nearest point from which the breadth of the territorial waters of India and of such State are measured.

(2) Every agreement referred to in sub-section (1) shall, as soon as may be after it is entered into, be published in the Official Gazette.

(3) The provisions of sub-section (1) shall have effect notwithstanding anything contained in any other provision of this Act.

10. *Publication of charts.*—The Central Government may cause the baseline referred to in sub-section (2) of section 3, the limits of the territorial waters, the contiguous zone, the continental shelf, the exclusive economic zone and the historic waters of India and the maritime boundaries as settled by agreement referred to in section 9 to be published in charts.

11. *Offences.*—Whoever contravenes any provision of this Act or of any notification thereunder shall (without prejudice to any other action which may be taken against such person under any other provision of this or of any other enactment) be punishable with imprisonment wh[illegible] fine, or with both.

12. *Offences by companies.*—(1) Where an offence under this Act or the rules made thereunder has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act or the rules made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or the connivance of, or is attributable to any neglect on the part of, any director manager, secretary or other officer of the company such director manager, Secretary or other officer shall also be deemed to be

guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(*a*) "company" means any body corporate and include a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partne in the firm.

13. *Place of trial.*—Any person committing an offence unde this Act or any rules made thereunder or under any of th enactments extended under this Act or under the rules mad thereunder may be tried for the offence in any place in whic he may be found or in such other place as the Central Goverr ment may, by general or special order, published in the Offici Gazette, direct in this behalf.

14. *Previous sanction of the Central Government for prosecu tion.*—No prosecution shall be instituted against any person i respect of any offence under this Act or the rules made there under without the previous sanction of the Central Gov or such officer or authority as may be authorised Government by order in writing in this behalf

15. *Power to make rules.*—(1) The Central may, by notification in the Official Gazette, make carrying out the purposes of this Act.

(2) In particular and without prejudice to the general of the foregoing power, such rules may provide for all or any the following matters, namely:—

(*a*) regulation of the conduct of any person in the ter torial waters, the contiguous zone, the continental shelf, t exclusive economic zone or any other maritime zone of India;

(*b*) regulation of the exploration and exploitation, co servation and management of the resources of the continent shelf;

(*c*) regulation of the exploration, exploitation, conservation and management of the resources of the exclusive economic zone;

(*d*) regulation of the construction, maintenance and operation of artificial islands, off-shore terminals, installations and other structures and devices referred to in sections 6 and 7;

(*e*) preservation and protection of the marine environment and prevention and control of marine pollution for the purposes of this Act;

(*f*) authorisation, regulation and control of the conduct of scientific research for the purposes of this Act;

(*g*) fees in relation to licences and letters of authority referred to in sub-section (4) of section 6 and sub-section (5) of section 7 or for any other purpose; or

(*h*) any matter incidental to any of the matters specified in clauses (*a*) to (*g*).

(3) In making any rule under this section, the Central Government may provide that a contravention thereof shall be punishable with imprisonment which may extend to three years, or with fine which may extend to any amount, or with both.

(4) Every rule made under this Act and every notification issued under sub-section (5) of section 6 or sub-section (6) of section 7 shall be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or the notification or both Houses agree that the rule or notification should not be issued, the rule or notification shall, thereafter, have effect only in such modified from or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

16. *Removal of difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act or of any of the enactments extended under this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or, as the case may be, of such enactment, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section—

(*a*) in the case of any difficulty arising in giving effect to any provision of this Act, after the expiry of three years from the commencement of such provision;

(*b*) in the case of any difficulty arising in giving effect to the provisions of any enactment extended under this Act, after the expiry of three years from the extension of such enactment.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

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K.
*Secy. to the Govt. of India.*

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 88 LCA 1976

*Bangalore, dated 14th October 1976.*

Ordered that the Maintenance of Internal Security (Amendment) Act, 1976 (78 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 25th August 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka.

B. NAGESHA RAO,
*Under Secy. to Govt., Department of Law and Parliamentary Affairs.*

## GOVERNMENT OF INDIA

## MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

*New Delhi the 25th August, 1976/Bhadra 3, 1898 (Saka).*

The following Act of Parliament received the assent of the President of the 25th August 1976, and is hereby published for general information :—

## GOVERNMENT OF INDIA,

## THE MAINTENANCE OF INTERNAL SECURITY (SECOND AMENDMENT) ACT, 1976

No. 78 of 1976

[*25th August, 1976*]

An Act further to amend the maintanence of Internal Security Act, 1971.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. **Short title and commencement.**—(*1*) This Act may be called the Maintenance of Internal Security (Second Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 16th day of June, 1976.

2. **Amendment of Act 26 of 1971.**—In section 16A of the Maintenance of Internal Security Act, 1971 (hereinafter referred to as the principal Act), in sub-section (1), the words "twelve months", the words "twenty-four months" shall be substituted.

3. **Removal of doubts.**—For the removal of doubts, it is hereby declared that every declaration made under section 16A of the principal Act before the commencement of this Act and in force immediately before such commencement shall have effect as if the amendment made in that section by this Act had been in force on and from the 29th day June, 1975.

4. **Repeal and saving.**—(*1*) The Maintenance of Internal Security (Amendment) Ordinance, 1976 (5 of 1976), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

K. K. SUNDARAM,
*Secy. to the Govt. of India.*

CORRIGENDA of the Levy Sugar Price Equalisation Fund Act, 1976 printed in Act No. 37 of 1976 as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 19th March, 1976 is hereby cancelled and re-issued as under :—

*CORRIGENDA*

In the Levy Sugar Price Equalisation Fund Act, 1976 (31 of 1976) as published in the Gazete of India, Extraordinary, Part II, Section 1, dated the 16th February, 1976—

1. Page 236, section 8, in the proviso *for* "61", *read* "6]";
2. Page 237, section 10(3), in the margin, *for* "2 of 1973.", *read* "2 of 1974.";
3. Page 238, section 13, *for* the marginal heading, *read* "Penalties."; and
4. Page 239, section 16(3), *for* "successive session,", *read* "successive sessions;".

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In the Coal Mines (Nationalisation) Amendment Act, 1976 (67 of 1976) as published in the Gazette of India, Extraordinary, Part. II, Section 1, dated the 27th May, 1976, in page 1708,—

(i) in line 8 for "a Government, company", *read* "a Government company",

(ii) in line 7 from bottom, *for* "a Government, company" read "a Government company".

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In the Pharmacy (Amendment) Act, 1976 (70 of 1976) as published in the Gazette of India, Extraordinary, Part II, Section 1 dated the 27th May, 1976—

1. at page 737, in the title, *for* "HE", read "The";
2. at page 741, in sub-clause (*ii*) of clause (*a*) of section 10 for 'pharmasists", *read* pharmacists"; and
3. at page 743, in the last line of section 10 for [illegible] read "Pharmacy".

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In the Disturbed Areas (Special Courts) Act, 1976 (77 of 1976) as published in the Gazette of India, Extraordinary, Part II Section 1, dated the 11th June, 1976, in page 809, in the marginal entry pertaining to item 2 of the Schedule, *for* "54 of 1955.", *read* "54 of 1959.".

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

# PART IV

## SECTION 1-B

## CENTRAL ACTS AND ORDINANCE

### LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 108 LCA 76.

*Bangalore, dated 20th October 1976.*

Ordered that the Central Sales Tax (Amendment) Act, 1976 (Central Act No. 103 of 1976) published in Part II Section I of the Gazette of India, Extraordinary dated 9th September 1976 be published in the *Karnataka Gazette* for General information.

By Order and in the name of the Governor of Karnataka

B. NAGESHA RAO,
*Under Secy. to Govt.,*
79 *Dept. of Law and Parliamentary Affairs*

### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
**(Legislative Department)**

*New Delhi, the 9th September, 1976/Bhadra 18, 1898 (Saka)*

The following Act, of Parliament received the assent of the President on the 7th September 1976, and is hereby published for general information.—

### THE CENTRAL SALES TAX (AMENDMENT) ACT, 1976
No. 103 of 1976

*(7th September 197*

An

Act

Further to amend the Central Sales Tax Act, 1956.

BE, it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

**1. Short title.**—This Act may be called the Central Sales Tax (Amendment) Act, 1976.

**2. Amendment of section 2.**—In section 2 of the Central Tax Act, 1956 (74 of 1956) (hereinafter referred to as the principal Act),—

(a) after clause (a), the following clauses shall be inserted namely:—

'(aa) "business" includes—

(i) any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern ; and

(ii) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern ;

(ab) " crossing the c
the limits of the area of a customs station in which imported goods or export goods are ordinarily kept before clearance by customs authorities.

*Explanation.*—For the purposes of this clause, "customs station" and "custom authorities" shall have the same meanings as in the Customs Act, 1962,' (52 of 1962.)

(b) for clause (b) the following clause shall be substituted, namely;—

'(b) " dealer " means any person who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods, directly or indirectly, for cash, or for deferred payment, or for commission, remuneration or other valuable consideration and includes—

(i) a local authority, a body corporate, a company, any co-operative society or other society, club, firm, Hindu undivided family or other association of persons which carries on such business ;

(ii) a factor, broker, commission agent, *del credere* agent or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or distributing, goods belonging to any principal where disclosed or not ; and

(iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal.

*Explanation 1.*—Every person who acts as an agent, in any State f a dealer residing outside that State and buys, sells, supplies, or listributes, goods in the State or acts on behalf of such dealer as—

(i) a mercantile agent as defined in the Sale of goods Act, 1930, (3 of 1930.) or

(ii) an agent for handling of goods or documents of title relating to goods: or

(iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment,

and every local branch or office in a State of a firm registered outside that State or a company or other body corporate, the principal office or headquarters. Whereof is outside that State, shall be deemed to be a dealer for the purposes of this Act.

*Explanation 2.*—A Government which, whether or not in the course of business, buys, sells, supplies or distributes, goods, directly or otherwise, for cash or for deferred payment or for

commission, remuneration or other valuable consideration, shall, except in relation to any sale, supply or distribution of surplus un-serviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act ;'.

30. **Amendment of section 5.**—In section 5 of the principal Act, after sub-section (2), the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely ;—

"(3) Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export."

4. **Amendment of section 6.**—In section 6 of the principal Act, in sub-section (1), the following proviso shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April 1976, namely :—

"Provided that a dealer shall not be liable to pay tax under this Act on any sale of goods which, in accordance with the provisions of sub-section (3) of section 5, is a sale in the course of export of those goods out of the territory of India".

5. **Amendment of section 7.**—In section 7 of the principal Act for sub-section (3B), the following sub-sections shall be substituted namely —

"(3B) No dealer shall be required to furnish any security under sub-section (2A) or any security or additional security under sub-section (3A) unless he has been given an opportunity of being heard.

(3BB) The amount of security which a dealer may be required to furnish under sub-section (2A) or sub-section (3A) or the aggregate of the amount of such security and the amount of additional security which he may be required to furnish under sub-section (3A), by the authority referred to therein, shall not exceed—

(a) in the case of a dealer other than a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax payable under this Act, in accordance with the estimate of such authority, on the turnover of such dealer for the year in which such security or, as the case may be, additional security is required to be furnished ; and

(b) in the case of a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax leviable under this Act, in accordance with the estimate of such authority on the sales to such dealer in the course of inter-State trade or commerce in the year in which such security or, as the case may be, additional security is required to be furnished, had such dealer been not registered under this Act."

6. "**Amendment of section 9.**—In section 9 of the principal Act,-

(a) in sub-section (1), for the proviso, the following proviso shall be substituted, namely :—

"Provided that, in the case of a sale of goods during their movement from one State to another, being a sale subsequent to the first sale in respect of the same goods and being also a sale which does not fall within sub-section (2) of section 6, the tax shall be levied and collected—

(a) [illegible] red dealer, in the State from which the registered dealer obtained or as the case may be, could have obtained, the form prescribed for the purpose of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods, and

(b) where such subsequent sale has been effected by an unregistered dealer, in the State from which such subsequent sale has been effected.";

(b) in sub-section (2), before the words "compounding of offences", the words "charging or payment of interest," shall be inserted and shall be deemed always to have been inserted ;

(c) after sub-section (2), the following sub-section shall be inserted, namely :—

"(2A) All the provisions relating to offences and penalties including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence but excluding the provisions relating to matters provided for in sections 10 and 10A) of the general sales tax law of each State shall, with necessary modifications, apply in relation to the assessment, re-assessment, collection and the enforcement of payment of any tax required to be collected under this Act in such State or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax under this Act were a tax under such sales tax law."

7. **Amendment of section 14.**—In section 14 of the principal Act,—

(a) clause (i) shall be re-numbered as clause (ia) and before clause (ia) as so re-numbered, the following clause shall be inserted namely :—

(i) cereals, that is to say,—

(*i*) paddy (*Oryza sativa L.*)

(*ii*) rice (*Oryza sativa L*) ;

(*iii*) wheat (*Triticum vulgare, T. compactum, T. sphaerococcum, T. durum, T. aestivum L , T. dicoccum*

(*iv*) *jowar* or milo (*Sorghum vulgare Pers*) ;

(*v*) *bajra* (*Pennisetum typhoideum L.*) ;

(*vi*) *maze* (*Zea mays D* ) ;

(*vii*) *ragi* (*Eleusine coracana Gaertn.*) ;

(*viii*) *kodon* (*Paspalum scrobiculatum L* ) ;

(*ix*) *kutki* (*Panicum miliare L.*) ;

(*x*) barley (*Hordeum vulgare L*) ; "

(b) after clause (iib), the following clause shall be inserted namely :—

"(iic) crude oil, that is to say, crude petroleum oils and crude oils obtained from bituminous minerals (such as shale, calcareous rock sand), whatever their composition, whether obtained from normal or condensation oil-deposits or by the destructive distillation of bituminous minerals and whether or not subjected to all or any of the following processes.—

(1) decantation ;

(2) de-salting ;

(3) dehydration ;

(4) stabilisation in order to normalise the vapour pressure ;

(5) elimination of very light fractions with a view to returning them to the oil-deposits in order to increase the flash point and to maintain the pressure ;

(6) the addition of only those hydrocarbons previously recovered by physical methods during the course of the above-mentioned processes ;

(7) any other minor process (including addition of pour point depressants or flow improvers) which does not change the essential character of the substance ;"

(c) after clause (*vi*), the following clause shall be inserted, namely :—

"(*via*) pulses, that is to say,—

(*i*) gram or *gulab* gram *Cicerarietinum L,*) ;

(*ii*) *tur or arhar* (*Cajanus cajan*) ;

(iii) *mong or green gram* (*Phaseolus aureus*)

(*iv*) *masur or lentil Lens esculenta Moench, Lens culinaris Medic*;

(*v*) *urad or black gram* (*Phaseolus mungo*);

(*vi*) *moth* (*Phaseolus acontitifolius Jacq*)

(*vii*) *lakh or khesari* (*Laxyyrus sativus L*);'

8. Amendment of section 15.—In section 15 of the principal act, after clause (b), the following clauses shall be inserted, namely:—

(c) where a tax has been levied under that law in respect of the sale or purchase inside the State of any paddy referred to in sub-clause (i) of clause (i) of section 14, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy ;

(d) each of the pulses referred to in clause (*via*) of section 14, whether whole or separated, and whether with or without husk, shall be treated as a single commodity for the purposes of levy of tax under that law."

9 Validation.—(1) The provisions of section 9 of the principal Act shall have effect, and shall be deemed always to have had effect in relation to the period commencing on the 5th day of January, 1957

and ending with the date immediately preceding the date of commencement of this Act as if that section als provided.—

(a) that all the provisions relating to penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment on conviction for an offence but excluding the provisions relating to matters provided for in sections 10 and 10 A of the principal Act and the provisions relating to offences) of the general sales tax law of each State shall, with necessary modifications, apply in relation to—

(i) the assessment, re-assessment collection and enforcement of payment of any tax required to be collected under the principal Act in such State ; and

(ii) any process connected with such assessment, re-assessment collection or enforcement of paymnet; and

(b) that for the purpose of the application of the provisions of such law, the tax under the principal Aet shall be deemed to be tax under such law.

(2) Notwithstanding anything contained in any judgment, decree or order of any court or tribunal or other authority, all penalties under the general sales tax law of any State imposed or purporting to have been imposed in pursuance of the provisions of section 9 of the principal Act, and all proceedings, acts or things taken or done for the purpose of or in relation to the imposition or collection of such penalties, before the commencement of this Act shall, for all purposes, be deemed to be and to have always been imposed, taken or done as validly and effectively as if the provisions of sub-section (1) had been in force when such penalties were imposed or proceedings or acts or things were taken or done and, accordingly,—

(a) no suit or other proceedings shall be maintained or continued in or before any court or any tribunal or other authority for the refund of any amount received or realised by way of such penalty ;

(b) no court, tribunal or other authority shall enforce any decree or order directing the refund of any amount received or realised by way of such penalty ;

(c) where any amount which had been received or realised by way of such penalty had been refunded before the commencement of this Act and such refund would not have been allowed if the provisions of sub-section (1) had been in force on the date on which the order for such refund was passed, the amount so refunded may be recovered as an arrear of tax under the principal Act ;

(*d*) any proceeding, act or thing which could have been validly taken, continued or done for the imposition of such penalty at any time before the commencement of this Act if the provisions of sub-section (1) had then been in force but which had not been taken, continued or don
tinued or done.

(3) Nothing in sub-section (2) shall be construed as preventing any person,—

(*a*) from questioning the imposition or collection of any penalty or any proceedings, act or thing in connection therewith; or

(*b*) from claiming any refund,

in accordance with the provisions of the principal Act read with sub-sectioo (1).

*Explanation.*—In computing the period of limitation, if any, for questioning as provided in clause (*a*) or for claiming as provided in clause (*b*), the period commencing on the 27th day of February, 1975 and ending with date of commencement of this Act shall be excluded.

(4) Any interest charged or paid or purporting to have been charged or paid, and any proceeding, act or thing taken or done or purporting to have been taken or done for charging or paying any interest, under the provisions of the general sales tax law of any State read with section 9 of the principal Act, before the commencement of this Act, shall be deemed to be and to have always been as validly charged, paid, taken or done as if the amendment made by clause (*b*) of section 6 had been in force when such interest was charged or paid or when such proceeding, act or thing was taken or done.

*Explanation.*—For the purposes of this section, "general sales tax law" shall have the same meaning as in the principal Act.

S. K. MAITRA,

*It Secy. to the Govt. of India*

Reg. No. KRNA—25.

# Karnataka Gazette

PUBLISHED BY AUTHORITY
(EXTRAORDINARY)
PART IV—1-B

BANGALORE, WEDNESDAY, JANUARY 14, 1976
(PUSHYA 24, SAKA ERA 1897)

No. 310

LAW AND PARLIAMENTARY SECRETARIAT

Notification No. LAW 1 LCR 76

*Bangalore, dated the 13th January 1976.*

Ordered that the Order No. GSR 16 (E), dated 8th January 1976 issued under Article 359 (1) of the Constitution of India be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government,*
*Department of Law and Parliamentary Affairs.*

GOVERNMENT OF INDIA

**MINISTRY OF HOME AFFAIRS**

NOTIFICATION

*New Delhi, the 8th January 1976*

**G.S.R. 16(E).**—In exercise of the powers conferred by Clause (1) of Article 359 of the Constitution of India the President hereby declares that the right of any person to move any Court for the enforcement of the rights conferred by Article 19 of the Constitution and all proceedings pending in any Court for the enforcement of the above mentioned rights shall remain suspended for the period during which the proclamation of Emergency made under clause (1) of Article 352 of the Constitution on the 3rd December 1971 and on the 25th June 1975 are both in force.

This Order shall extend to the whole of the territory of India.

FAKHRUDDIN ALI AHMED,
PRESIDENT.

Regd. No. KRNA—25

# Karnataka Gazette

PUBLISHED BY AUTHORITY

(EXTRAORDINARY)

PART IV—1-B

BANGALORE, WEDNSDAY, MARCH 3, 1976
PHALGUNA 13, SAKA ERA 1897).

No. 1241

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 7 LCA 76.

*Bangalore, dated the 2nd March 1976.*

Ordered that the Bonded Labour System (Abolition) Act, 1976 (Central Act No. 19 of 1976) published in Part II, Section I of the Gazette of India, Extraordinary dated 9th February 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka

B. NAGESHA RAO,

*Under Secretary to Government.*
*Department of Law and Parliamentary Affairs*

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

**(Legislative Department)**

*New Delhi, the 9th February 1976 Magha 20, 1897 (Saka)*

The following Act of Parliament received the assent of the President on the 9th February 1976, and is hereby published for general information.—

# THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

No. 19 OF 1976

*[9th February 1976]*

An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-seventh year of the Republic of India as follows.—

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Bonded Labour System (Abolition) Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of October, 1975.

**2. Definitions.**—In this Act, unless the context otherwise requires.—

(*a*) "advance" means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor) ;

(*b*) "agreement" means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

*Explanation.*—The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in relation to the following forms of forced labour, namely :—

Adiyamar, Baramasia, Bashaya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi. Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak Sewakia, Seri, Vetti ;

(*c*) "ascendant" or "descendant" in relation to a person belonging to matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society ;

(*d*) "bonded debt" means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of the bonded labour system ;

(*e*) "bonded labour" means any labour or service rendered under the bonded labour system ;

(*f*) "bonded labourer" means a labourer who incurs or has, or is presumed to have incurred, a bonded debt ;

(*g*) "bonded labourer system" means the system of forced, or partly forced, labour under which a debtor enters or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,—

(*i*) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest if any due on such

(*ii*) in pursuance of any customary or social obligation, or

(*iii*) in pursuance of an obligation devolving on him by succession, or

(*iv*) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(*v*) by reason of his birth in any particular caste or community,

he would—

(*1*) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(*2*) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(*3*) forfeit the right to move freely throughout the territory of India, or

(*4*) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,

and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor :

(*h*) "family", in relation to a person, includes the ascendant and descendat of such person :

(*i*) "nominal wages", in relation to any labour, means a wage which is less than,

(*a*) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force, and

(*b*) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid for the same or similar labour, to the labourers working in the same locality :

(*j*) "prescribed" means prescribed by rules made under this Act.

**3. Act to have overriding effect.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

## CHAPTER II

### ABOLITION OF BONDED LABOUR SYSTEM

**4. Abolition of bounded labour system.**—(1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour.

(2) After the commencement of this Act, no person shall—

(*a*) make any advance under, or in pursuance of the bonded labour system, or

(*b*) compel any person to render any bonded labour or other form of forced labour.

**5. Agreement, custom, etc., to be void.**—On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act), by virtue of which any person, or any member of the family or dependant of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

## CHAPTER III

### EXTINGUISHMENT OF LIABILITY TO REPAY BONDED DEBT

**6. Liability to repay bonded debt to stand extinguished.**—(1) On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Act, no suit or other proceeding shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall on such commencement, stand vacated: and, where, in pursuance of such attachment any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependant was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (*4*) or sub-section (*5*) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restora-

tion of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act:

Provided that the bonded labourer, or an agent authorised by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court, for payment to the decree-holder, the amount specified in the proclamation of sale for the recovery of which the sale was ordered, less any amount as well as mesne profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall on such commencement, stand dismissed,

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

**7. Property of bonded labourer to be freed from mortgage, etc.**—(1) All property vested in a bonded labourer which was, immediately before the commencement of this

Act under any mortgage, charge, line or other encumbrances in connection with any bonded debt, shall, in so far as it is relatable to the bonded debft stand freed and discharged from such mortgage, charge, line or other encumbrances, and where any such property was, immediately before the commencement of this Act, in the possession of the mortgage or the holder of the charge, line or encumbrance, such property shall (except where it was subject to any other charge), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the line, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

**8. Freed bonded labourer not to be evicted from homestead, etc.**—(1) No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section (1), the Executive Magistrate in charge of the Sub-Division within such homestead or residential premises is situated shall, as early as practicable restore the bonded labourer to the possession of such homestead or other residential premises.

**9. Creditor not to accept payment against extinguished debt.**— (1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1) within such period as may be specified in the order for being refunded to the bonded labourer.

## CHAPTER IV

### Implementing authorities

**10. Authorities who may be specified for implementing the provisions of this Act.**—The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

**11. Duty of District Magistrate and other officers to ensure credit.**—The District Magistrate authorised by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

**12. Duty of District Magistrate and officers authorised by him.**—It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of

forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

## CHAPTER V

### VIGILANCE COMMITTEES

**13. Vigilance Committees.**—(1) Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members namely:—

(*a*) the District Magistrate, or a person nominated by him, who shall be the Chairman :

(*b*) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the district, to be nominated by the District Magistrate ;

(*c*) two social workers, resident in the district, to be nominated by the District Magistrate ;

(*d*) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government ;

(*e*) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:-

(*a*) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the Chairman ;

(*b*) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate ;

(*c*) two social workers, resident in the Sub-Division, to be nominated by the Sub-Divisional Magistrate ;

(*d*) not more than three persons to represent the official or non official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate ;

(*e*) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrare,

(*f*) one officer specified under section 10 and functioning in the Sub Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by—

(*a*) the District Magistrate, in the case of a Vigilance Committee constituted for the district,

(*b*) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid merely by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

**14. Functions of Vigilance Committees.**—(1) The functions or each Vigilance Committee shall be,—

(*a*) to advise the District Magistrate or any offic authorised by him as to the efforts made, and action taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented,

(*b*) to provide for the economic and social rehabilitation of the freed bonded labourers ;

(*c*) to co-ordinate the functions of rural banks and co operative societies with a view to canalising adequate credit to the freed bonded labourer ;

(*d*) to keep an eye on the number of offences of which cognizance has been taken under this Act ;

(*e*) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act ;

(*f*) to defend any suit instituted against a freed bonded labour or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

(2) A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer and the member so authorised shall be deemed for the purpose of such suit to be the authorised agent of the freed bonded labourer.

15. **Burden of proof.**—Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

## CHAPTER VI

### Offences and procedure for trial

16 **Punishment for enforcement of bonded labour.**—Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

17. **Punishment for advancement of bonded debt.**—Whoever advances, after the commencement of this Act any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

18. **Punishment for extracting bonded labour under the bonded labour system.**—Whoever enforces, after the

commencement of this Act, any custom, tradition, contract, agreement or other instrument by virtue of which any person or any member of the family of such person or any dependant of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees ; and out of the fine, if recovered, payment shall be made to the bonded labour at the rate of rupees five for each day for which the bonded labour was extracted from him.

19. **Punishment for omission or failure to restore possession of property to bonded labourers.**—Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and out of the fine if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

20 **Abetment to be an offence.**—Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

*Explanation.*—For the purpose of this Act "abetment" has the meaning assigned to it in the Indian Penal Code.

21. **Offences to be tried by Executive Magistrates.**—(1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the First Class or of the Second Class for the trial of offences under this Act, and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, (2 of 1974) to be a Judicial Magistrate of the first class, or of the second class, as the case may be

(2) An offence under this Act may be tried summarily by a Magistrate.

**22. Cognizance of offences.**—Every offence under this Act shall be cognizable and bailable.

**23. Offences by companies.**—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

## CHAPTER VII

### MISCELLANEOUS

**24. Protection of action taken in good faith.**— No suit, prosecution or other legal proceeding shall lie against any State Government or any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

**25. Jurisdiction of civil courts barred.**—No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

**26. Power to make rules** —(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely.—

(*a*) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of section 6 is to be submitted in pursuance of sub-section (6) of that section ;

(*b*) the time within which application for restoration of possession of property is to be made, under sub-section (6) of section 6, to the prescribed authority ;

(*c*) steps to be taken by Vigilance Committees unde clause (*a*) of sub-section (1) of section 14, to ensure thr implementation of the provisions of this Act or of anye rule made thereunder ;

(*d*) any other matter which is required to be, or may be prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

**27. Repeal and saving.**— (1) The Bonded Labour System (Abolition) Ordinance, 1975 (17 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified shall be deemed to have been done or taken under the corresponding provisions of this Act.

K. K. SUNDARAM,
Secretary to the Government of India

Printed by the Director of Printing, Stty. & Publications at the Govt. Press, Shillong.

eg. No. KRNA—25.

# Karnataka Gazette

PUBLISHED BY AUTHORITY
(EXTRAORDINARY)
PART IV—1-B

BANGALORE, WEDNESDAY, JANUARY 14, 1976
(PUSHYA 24, SAKA ERA 1897)

No. 310

LAW AND PARLIAMENTARY SECRETARIAT

Notification No. LAW 1 LCR 76

*Bangalore, dated the 13th January 1976.*

Ordered that the Order No. GSR 16 (E), dated 8th January 1976 issued under Article 359 (1) of the Constitution of India be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
*Under Secretary to Government,*
*Department of Law and Parliamentary Affairs.*

GOVERNMENT OF INDIA

**MINISTRY OF HOME AFFAIRS**

NOTIFICATION

*New Delhi, the 8th January 1976*

**G.S.R. 16(E).**—In exercise of the powers conferred by Clause (1) of Article 359 of the Constitution of India the President hereby declares that the right of any person to move any Court for the enforcement of the rights conferred by Article 19 of the Constitution and all proceedings pending in any Court for the enforcement of the above-mentioned rights shall remain suspended for the period during which the proclamation of Emergency made under clause (1) of Article 352 of the Constitution on the 3rd December 1971 and on the 25th June 1975 are both in force.

This Order shall extend to the whole of the territory of India.

FAKHRUDDIN ALI AHMED,
PRESIDENT.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

KRN—Bg. GPO -25

# Karnataka Gazette

PUBLISHED BY AUTHORITY

(EXTRAORDINARY)

PART IV—2-C (i)

BANGALORE, TUESDAY, DECEMBER 29, 1981 (PUSHYA 8, SAKA ERA 1903). | No 923

PERSONNEL AND ADMINISTRATIVE REFORMS SECRETARIAT

Notification No. DPAR 17 SLC 81(B)
Bangalore, dated 29th December 1981.

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Karnataka hereby makes the following rules further to amend the Karnataka State Civil Services (Direct Recruitment to Class III Posts) (Special) Rules, 1973, namely:

1. Title and commencement.—(1) These rules may be called the Karnataka State Civil Services (Direct Recruitment to Class III Posts) (Special) (Second Amendment) Rules, 1981.

(2) They shall come into force on the date of their publication in the official Gazette.

2. Amendment of rule 5.—For clause (2) of rule 5 of the Karnataka State Civil Services (Direct Recruitment to Class III Posts) (Special) Rules, 1973, the following clause shall be and shall be deemed always to have been substituted, namely:

"(2) the service rendered by a person as a local candidate until the date of his appointment under these rules shall count for purposes of leave, increment and pension in the same manner and to the same extent and subject to the same conditions applicable to a temporary Government servant."

GOVERNOR OF KARNATAKA

By Order and in the name of the Governor of Karnataka,

V. S. NAIK,
Under Secretary to Government,
Dept. of Personnel and Admnv. Reforms,
Service Rules.

G.S.R. 275

Printed by the Director of Pln. Stv. & Publns. at the Govt. Press, B'lore